

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1003 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Ram Prasad Thakur S/o Sri Sahdeo Thakur, r/o Vill.- Kabaiya, P.O.-
Dalmalpur, P.S.- Rauta, District- Purnia

... .. Petitioner

Versus

1. The State of Bihar
2. Bina Devi, W/o Ram Prasad Thakur & D/o Phanni Lal Thakur
3. Rajesh Kumar, S/o Ram Prasad Thakur
4. Suganti Kumari, D/o Ram Prasad Thakur Opp. Party Nos. 2,3 and 4 are at present resident of village- Denga Juraila, P.S.- Palasi, District- Araria

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.
For the Respondent/s	:	Mr.Akhileshwar Dayal, APP
For the O.P. No. 2 to 4	:	Mr. Ziaul Quamar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 10-11-2022 No one appears for the petitioner.

Mr. Ziaul Quamar, learned counsel for the opposite party nos. 2 to 4 is present.

Petitioner is aggrieved by and dissatisfied with the judgment dated 23rd September, 2015 passed in Maintenance Case no. 235 of 2008. By the impugned judgment, the learned Principal Judge, Family Court, Araria has been pleased to direct the husband-petitioner to pay a sum of Rs. 3,000/- per month to the opposite party and her two minor children.

Even though learned counsel for the petitioner has not appeared but finding that this revision application is of the year



2015 and has already remained pending for about seven years in this Court and it requires an expeditious consideration, this Court has gone through the impugned judgment and perused the grounds raised in the revision application.

On a reading of the impugned judgment, it would appear that the marriage between the parties and the birth of two children who are opposite party nos. 3 and 4 in the present revision application are not in dispute. The admitted evidence which has come on the record is that the husband has performed a second marriage and that has been taken as a reasonable cause for the applicant-wife to live separately from her husband. The husband-petitioner is said to be engaged in milk business and has also got landed property. This has been supported by the independent witnesses.

Having regard to the materials available on the record, this Court finds that the learned court below has not committed any error by awarding a sum of Rs. 3,000/- per month to the opposite party nos. 2 to 4. In fact the entire amount may not be found sufficient for maintenance of three persons, still the petitioner has endeavour to challenge the impugned order. It is not known whether during pendency of this revision application he has been paying the maintenance amount to his wife and the



minor children.

Recently in the case of **Anju Garg and Another Vs. Deepak Kumar Garg reported in 2022 SCC Online SC 1314**, the Hon'ble Supreme Court has held that an able-bodied person is obliged to maintain his wife and children even by doing physical labour. Paragraph '10' of the judgment is quoted hereunder for a ready reference:-

“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In ***Chaturbhuj v. Sita Bai reported in (2008) 2 SCC 316***, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”



Section 125 Cr.P.C. is a piece of social legislation which has been brought in the statute book to provide succor to the neglected women and children. This Court finds that in this case by no stretch of imagination the petitioner could have denied a maintenance of Rs. 1000/- per month to one of his dependents and in this way Rs. 3,000/- which has been awarded for three members of his family cannot be said to be excessive.

This Court, therefore, while dismissing the revision application thinks it just and proper to observe and direct that in case the petitioner has not paid the maintenance amount so far and in the name of pendency of the revision application, if he is found to have avoided the payment to his wife and minor children, the learned Principal Judge, Family Court, Araria shall ensure not only to enforce the impugned judgment as expeditiously as possible but also to realize a cost of Rs. 25,000/- from the petitioner which will be payable to his wife and minor children.

This revision application stands dismissed.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

