

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.613 of 2018

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

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Md. Rafi Ahmad @ Rafi Ahmad, Son of Late Md. Shoyeb, Resident of Village- Banauli P.S.- Simri District- Darbhanga. At present Bihar State Minority Finance Corporation Ltd, 34 Harding Road, Haj Bhawan, Patna.

... .. Petitioner

Versus

1. Safina Keaton, Wife of Md. Rafi Ahmad.
2. Shama, daughter of Md. Rafi Ahmad, both resident of Village- Banauli, P.S.- Simri, District- Darbhanga. At present Village- Gopalpur Gopal, P.O.- Sharfuddinpur, P.S.- Bochhan, District- Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Anisur Rahman, Advocate
For the Respondent/s : Mr. Md. Fahimuddin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-07-2022 Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned A.P.P. for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 22.03.2018 passed by the learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 377 of 2015 by which the petitioner was directed to pay maintenance of Rs. 4,000/- per month to opposite party no. 1 and Rs. 2,000/- to opposite party no. 2 from the date of filing of the case.

By the impugned judgment, the learned Presiding Officer, Family Court, Muzaffarpur has directed the petitioner to pay a sum of Rs. 4,000/- per month as maintenance to his wife and



Rs. 2,000/- per month to his minor daughter.

Learned counsel for the petitioner submits that the entire amount under the impugned judgment is being paid to the opposite parties in the present case.

To assail the impugned judgment, learned counsel submits that the learned court below has not considered that the wife of this petitioner has got sufficient income to maintain herself and her minor daughter.

Learned counsel has taken this Court through paragraph nos. '8' and '9' of the impugned judgment to submit that one of the submissions on behalf of the petitioner was that the mother of his wife has income of Rs. 4,97,000/- per year from her Wakf property and the wife looks after the property of her mother from which she has an income about Rs. 35,000/- per month, therefore, she is not entitled for any maintenance.

Learned counsel submits that without any adjudication on this issue the impugned judgment has been passed.

This Court has perused the impugned judgment. The learned Principal Judge, Family Court, Muzaffarpur has taken into consideration the submission of the applicant-wife that after her marriage with the petitioner, she lived in her Sasural for some time and some times at the service place of her husband at Patna where she was blessed with two daughters. It is alleged that for last three



years, the husband and his brother started misbehaving with the present opposite party no. 1 for want of Rs. 2,00,000/- and a four wheeler vehicle and because this demand was not fulfilled she was ousted from her matrimonial house with her elder brother. Since then she is living miserably in her Naihar.

The Court has found that the petitioner is a Clerk in the Minority Welfare Department, Haj Bhawan, Patna and he earns Rs. 35,000/- per month and there is no other responsibility upon him. After discussing the evidences on the record, the learned Principal Judge, Family Court, Muzaffarpur has concluded that the applicant-wife is living in a deserted miserable life at her Naihar with her one daughter and at the same time the opposite party who is petitioner before this Court is a Clerk, he is earning Rs. 35,000/- 40,000/- per month and his wife has no source of income to maintain herself.

The learned Principal Judge, Family Court, Muzaffarpur has, therefore, passed the impugned judgment directing the payments to be made w.e.f. 16.09.2015 which is the date of filing of the case.

The proceeding under Section 125 Cr.P.C. is a summary proceeding. This provision was brought into the statute book with an intention to help the neglected women and children. In the present case, this Court finds that as regards the income of the



wife-opposite party a vague kind of plea was taken that she gets Rs. 35,000/- per month for looking after the property of her mother. Such stand taken on behalf of the husband-petitioner was never substantiated by bringing any cogent material on the record. There is nothing on the record to even prima-facie believe such submission that for looking after mother's property she will be getting Rs. 35,000/- per month. It is not disputed that the petitioner at the relevant time was earning about Rs. 35,000/- to Rs. 40,000/- from his salary. In the revision application also there is no ground that the petitioner is not getting his salary and/or does not have the land which has been mentioned in the impugned judgment by the learned Principal Judge, Family Court, Muzaffarpur.

In the entirety of the circumstances and the materials on the record, this Court finds no reason to interfere with the impugned judgment.

The revision application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

