

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1433 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Muzaffarpur

Shiveshankar Kumar @ Shiv Shankar Kumar @ Horil Son Of Sukhdeo Bhagat @ Sukdeo Bhagat Resident Of Village - Jagdamba Nagar, Paigamberpur, Kolhua Bairiya, P.S.- Ahiyapur, District - Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar
2. Mamta Kumari Wife Of Shiv Shankar Kumar @ Horil D/O Lal Babu Prasad Kushwaha, At Present Resident Of Village - Panapur, P.O.- Nariyar, P.S.- Minapur, District - Muzaffarpur

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Advocate
For the State : Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-09-2022 Heard learned counsel for the petitioner and Mr. Nand Kishore Prasad, learned APP for the State.

The petitioner in the present case is aggrieved by and dissatisfied with the order/judgment dated 16.08.2019 passed by learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 99 of 2016. By the impugned judgment, the learned court below has allowed a monthly maintenance of Rs.4,000/- per month to the applicant-wife and the petitioner has been directed to pay the same.

In course of argument, the first ground taken on behalf of the petitioner is that the learned court below has failed to appreciate that the applicant-wife was herself working as a school teacher and she had independent source of income.



It is submitted that the applicant-wife is an educated lady and she has done honours in English.

In support of his submissions, however, learned counsel for the petitioner is unable to demonstrate from any cogent material that in course of evidence, the petitioner had been able to disclose the name of the school in which his wife was teaching or that he had called for any relevant records from the said school. Learned counsel admits that neither the petitioner nor his witnesses could even name the school in which the applicant-wife was allegedly teaching.

Learned counsel further admits that no application was filed in the learned court below calling for any document from any other place/office to demonstrate that the applicant-wife is working as a teacher.

This Court finds that in this regard, the learned court below has recorded a finding in paragraph '7' that no paper has been filed with regard to being a teacher in a school nor any paper that she is running coaching institute. The learned court below has further recorded that nobody either a student or any teacher from the said school has been produced in course of evidence. This Court, therefore, finds that this ground raised on behalf of the petitioner would fail.

The second ground taken on behalf of the petitioner is



that the petitioner is a daily wager and earns Rs.300/- per day only. This ground is also liable to be rejected for two reasons. To this Court it seems highly improbable that an English honours educated girl would marry a daily wage earner who claims his earning at Rs.300/- per day, further this Court is of the view that even with an earning of Rs.300/- per day he can easily part with a sum of Rs.135/- approximately per day in favour of his wife. If he cannot survive with the left out amount of Rs.165/- per day, it is difficult to understand how his wife would survive with a sum of less than Rs.135/-. The petitioner is not ready to pay even this much. The conduct of the petitioner is required to be deprecated.

Since the petitioner has kept engaged his wife in litigation for over 6 years and has not paid any maintenance amount to her, this Court deems it just and proper to impose a cost of Rs.25,000/- (Rs. Twenty Five Thousand).

Let the cost as well as the arrears of maintenance be recovered from the petitioner by the learned Principal Judge, Family Court, Muzaffarpur as expeditiously as possible. The petitioner shall pay the current maintenance continuously.

This application stands disposed of 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'.

