

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.615 of 2018**

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

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Guddu Mishra @ Pankaj Kumar Mishra, Son of Yagyanand Mishra, Resident of Village- Sangrampur, Mishra Tola, P.S.- Sangrampur, District- East Champaran.

... .. Petitioner

Versus

Rani Devi, D/o Mahendra Kishore Pathak, Resident of Village- Kesaria, P.S.- Kesaria, District- East Champaran, Motihari.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party : Ms. Savita Kumari, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 11-07-2022 No one appears on behalf of the petitioner.

On 28.06.2022, the matter was adjourned for a week after recording the assurance given by Mr. Umesh Tiwary, learned counsel for the petitioner that he will argue the matter on the next date and this Court made it clear that no further adjournment shall be sought.

Learned counsel for the opposite party is present.

Since this is the case of the year 2018 and it is evident from the conduct of the learned counsel for the petitioner that he is not willing to argue the matter, this Court deems it just and proper to consider the revision application on the basis of the materials available on the record.

Petitioner in this case is aggrieved by and dissatisfied



with ex-parte judgment and order dated 08.11.2017 passed by Principal Judge, Family Court, East Champaran, Motihari in Maintenance Case No. 327 of 2015 whereby the petitioner was directed to pay maintenance Rs. 5,000/- per month to his wife-opposite party.

On a perusal of the impugned judgment it appears that the learned Principal Judge, Family Court, East Champaran, Motihari has found that the applicant-wife has no source of income. She has alleged to have been subjected to cruelty and that she has been ousted from her matrimonial house due to non-fulfillment of demand of dowry.

The learned court below has also found that the husband-petitioner has 3-4 Tempo and Bolero vehicle which are being run on hire basis from which he earns about Rs. 1,00,000/- per month. He has also got 07 bighas of agricultural land.

In the revision application, the petitioner has assailed the impugned judgment only on the ground that it is an ex-parte judgment. According to him, the wife-opposite party has no right to maintenance because she has willfully deserted the petitioner since 14.03.2017. According to him, there are vital contradictions in the deposition of P.W.1 and P.W.2 regarding



allegation of cruelty and demand of dowry as also on the point of the source of income of the petitioner.

This Court finds that the petitioner has not made any positive statement or ground to show that he is not an owner of 3-4 Tempo and a Bolero vehicle and/or he has no income by running the vehicles on hire. No contradiction in the statement of P.W. 1 and P.W.2 has been pointed out.

This proceeding under Section 125 Cr.P.C. is a summary proceeding, therefore, the court is not required to adjudicate on the point of desertion and only a prima-facie view has to be taken that too when the allegations of cruelty is subject matter of another proceeding before a competent court of law. In paragraph '3' of the impugned judgment, the learned court below has recorded that several steps were taken by the court to procure the attendance of the petitioner but he did not appear in this case. Thereafter, the case was fixed for ex-parte hearing.

In the revision application, the petitioner is not disclosing even his income on his own and all these go a long way to show that the plea taken on behalf of the petitioner in the present application is not a bonafide plea. The learned court below has awarded only a sum of Rs. 5,000/- per month which cannot be said to an excessive amount in the present days price



index of the country.

This Court, therefore, finds no reason to interfere with
the impugned judgment. This revision is dismissed.

(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'.

