

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.324 of 2017

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

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Upendra Yadav @ Upendra Singh Son of Jagnarayan Singh, resident of
Village- Dhudhani Kamarpur, P.S.- Muffasil Buxar, District- Buxar.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rina Devi, wife of Upendra Yadav @ Upendra Singh, D/o Late Parasnath Yadav, resident of Village- Dhudhani Kamarpur, P.S.- Muffasil Buxar, District- Buxar. Presently residing at Village- Jagdishpur, P.O.- Nadaw, P.S.- Mufasil Buxar, District- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh, Adv.
For the Respondent/s	:	Mr. Pramod Kumar Pradhan, APP
For O.P. No. 2	:	Mr. Arvind Kr. Pradhan, Adv. with Mr. Mungeshwar Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 14-03-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The present application has been filed for setting
aside the order dated 06.02.2017 passed by the Principal Judge,
Family Court, Buxar in Maintenance Case No. 108(M)/2013 by
which the petitioner was directed to pay Rs.8,000/- per month
for maintenance to O.P. No. 2 and Rs.10,000/- as a cost of
litigation to her.

Counsel for petitioner submits that in the order
passed by the Trial Court, this aspect has completely been

ignored that petitioner is paying Rs.1,000/- to O.P. No. 2 every month without fail in compliance of order of this Hon'ble Court in Cr. Misc. No. 41122 of 2011. Counsel further submits that there is no cause of action for O.P. No. 2 to seek maintenance as she had deserted the petitioner and her children also who are maintained by the petitioner. Counsel further submits that the petitioner is a good guardian and he is providing education to the children. His son is reading in graduation and daughter has passed the examination of intermediate. Counsel submits that the petitioner has been dismissed from service of C.R.P.F. and presently unemployed. He submits that there is no source of income of the petitioner. He has having few *kathas* of ancestral land with the help of which he is maintaining his children.

Counsel for State submits that the plea of dismissal from the service has been raised by the petitioner before the Principal Judge, Family Court, Buxar also but no document relating to dismissal was produced before the Court. As such, Court has not accepted the said plea. Counsel for State further submits that the plea of dismissal of service was the strongest plea of the petitioner. He has also taken ground in the revision but in support thereof, he has not produced any document either before the Family Court or before this Court.

Upon specific query from the Court to the petitioner that he has filed this application under Section 19(4) of Family Court Act, 1984 in which the point of correctness, legality and propriety are necessary for interference of the Hon'ble High Court in the order of Family Court. On this point, counsel submits that payment of Rs.1,000/- per month is being made to O.P. No. 2 in compliance of the order passed by the Hon'be Court in Cr. Misc. No. 41122 of 2011 at the time of granting anticipatory bail and this amount has not been adjusted/ set-off at the time of granting maintenance.

In this view of the matter, let the order dated 06.02.2017 passed in Maintenance Case No. 108(M)/2013 is hereby modified only up to that extent that O.P. No. 2 shall be entitled to receive only Rs.7,000/- per month as Rs.1,000/- she is continuously receiving from the petitioner in compliance of the order passed by the Hon'ble Court in Cr. Misc. No. 41122 of 2011.

Since, it has been only pleaded by the counsel for petitioner that petitioner has been dismissed at the Trial Court as well as before the High Court but in support thereof, he has not produced a single chit of paper either before the Family Court or before the High Court. So far as the order passed by the

Principal Judge, Family Court, Buxar is concerned, this Court finds that there is neither any illegality nor any lack of propriety in the said order.

Hence, this Cr. Rev. application is disposed off with an observation aforesaid and without interfering in the findings of the Principal Judge, Family Court, Buxar on the point of maintenance.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	