

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.914 of 2016

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

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Ranjit Singh S/o Umesh Singh resident of Village - Mahuain, P.O. - Malpa,
P.S. - Guraru, District - Gaya.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sunita Devi W/o Ranjit Singh D/o Anugrah Singh resident of Village - Mahuain, P.O. - Malpa, P.S. - Guraru, District - Gaya. At present resident of Village - Jinoria, P.O. - Khairadip, P.S. - Daudnagar, District - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Pd. Singh, Sr. Adv. with Mr. Saket Kumar Singh, Adv.
For the Respondent/s	:	Mr. Ajay Kumar No. 2, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-03-2023

Learned senior counsel Mr. Krishna Prasad Singh
alongwith Mr. Saket Kumar Singh, counsels for petitioner and
learned counsel for the State Mr. Ajay Kumar No. 2, in-charge
A.P.P. present.

The present Cr. Revision application has been filed
against the order dated 03.08.2016 passed by the Principal
Judge, Family Court, Aurangabad in Misc. Case No. 66 of 2013
by which the petitioner was directed to pay Rs.5,000/- per
month to O.P. No. 2 from the date of filing of the application of
maintenance under Section 125 of the Cr.P.C.

Counsel for petitioner submits that O.P. No. 2 is the

legally married wife of the petitioner. The marriage was solemnized in the year 2006. Counsel submits that O.P. No. 2 has filed a Misc. Case No. 96 of 2012 for maintenance and the same was dismissed. Counsel also submits that O.P. No. 2 did not appear before the Court in spite of sufficient time provided to her. Learned senior counsel further submits that the petitioner is a law abiding person and he is paying Rs.750/- per month to O.P. No. 2 as maintenance in compliance of the order passed in Cr. Misc. No. 50085 of 2013 at the time of bail. Counsel further submits that since the maintenance case was earlier dismissed filed by O.P. No. 2, then the second maintenance case being Misc. Case No. 66 of 2013 whose final order dated 03.08.2016 has been challenged before the present Cr. Revision has not maintainable and barred by *res-judicata*.

Counsel for the State submits that from the order under challenge, it transpires that the previous maintenance Misc. Case No. 96 of 2012 was dismissed by the Court due to non-appearance and no order has been passed on merit and, therefore, it shall not operate as *res-judicata*.

Counsel further submits that order impugned is not an *ex-parte* order. He further submits that sufficient notices were issued to the petitioner and due to his non-appearance, Misc.

Case No. 66 of 2013 was fixed *ex-parte* on 22.01.2015 and the case was fixed for orders after arguments but the counsel for O.P. (present petitioner) appeared and on his request, the matter was recalled. An opportunity was granted to O.P. (present petitioner) to file show cause. A petition of O.P. (present petitioner) was allowed on 13.04.2016 with a condition to the O.P. (present petitioner) that he shall pay Rs.1,500/- as cost to the applicant but O.P. (present petitioner) was failed to comply this order and as such the case was again fixed for arguments.

Counsel for the State further submits that during arguments, the counsel for O.P. (present petitioner) has filed his attendance but did not turn up in this case and only thereafter, the record was put up for orders on merit.

In this view of the matter, there is no need of any interference in the order impugned.

Upon specific query from the Court that present revision application has been filed under Section 19(4) of the Family Court Act, 1984 in which it has been clearly mentioned that High Court may interfere in the order on the points of correctness, legality and propriety of the order. Answering these questions, learned senior counsel fairly submits that such points are not present in the present case.

Learned senior counsel further submits that the petitioner is ready to keep O.P. No. 2 as wife.

From the record, it transpires that the direction of payment of Rs.5,000/- per month was made from the date of filing of the application. The date of filing of application was 14.05.2013 and today about 118 months have lapsed and as such, there is in total Rs.5,90,000/- dues are against the petitioner payable to O.P. No. 2.

Learned senior counsel submits that due to lapse of time, the payable amount is huge and he offers to pay those amounts in 3 easy installments. Learned senior counsel submits that petitioner is ready to pay Rs.5,90,000/- in 3 installments and the current amount Rs.5,000/- per month. The installments shall be Rs.2,00,000/-, Rs.2,00,000/- and Rs.1,90,000/-. He shall pay the first installment within 15 days from the date of receiving of the order before the Principal Judge, Family Court, Aurangabad, second and third installments he shall pay within a span of one month and two months thereafter. He shall continue to pay Rs.5,000/- every month.

The Principal Judge, Family Court, Aurangabad is directed to take steps according to provisions laid down under Cr.P.C. issuing process under Form 18 or 19 or both (Scheduled

II of the Cr.P.C.) only after time granted by this Court.

With the aforesaid observations, the present application stands disposed off.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	