

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.30 of 2021

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

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Ashutosh Kumar Das S/O Late Ramni Mohan Das Resident Of Village-
Dalhatta, P.S. - Kotwali (Munger), District - Munger.

... .. Petitioner/S

Versus

1. The State Of Bihar.
2. Leena Das W/O Ashutosh Kumar Das, D/O Late Suddhindra Mohan Sinha
At Present Residing - Mohaddin Nagar Mirjanhat, P.S. - Mojahidpur,
District - Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Pandey, Adv.
For the Respondent/s : Mr. A.G.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 04-05-2023 Counsel for the petitioner submits that there is

limitation filed in the petition vide I.A. 01 of 2021, for
condonation of delay of four months and nine days. Petitioner
submits that due to Corona period, there was delay and the
ground mentioned in paragraph 2, is hereby accepted and the
limitation petition filed vide I.A. 01 of 2021 is hereby allowed.

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

Counsel for the petitioner submits that the present Cr.
Revision Application has been filed for against dated
12.02.2020 passed in Misc. Case No. 03 of 2018, passed by the
Principal Judge, Family Court, Bhagalpur who has directed to

pay Rs. 16,000/- per month as maintenance amount.

Counsel for the petitioner submits that petitioner has filed a petition challenging both the orders i.e. order passed in Maintenance Case no. 45 of 1993, under Section 125 of the Code of Criminal Procedure and order dated 12.02.2020, passed in Misc. Case No. 03 of 2018, under Section 127(1) of the Code of Criminal Procedure.

Counsel for the petitioner submits that he is not interested in pursuing/challenging the order passed in Maintenance Case no. 45 of 1993, under Section 125 of the Code of Criminal Procedure, rather the present Cr. Writ application he is pressing only and only order dated 12.02.2020 passed in Misc. Case No. 03 of 2018, under Section 127(1) of the Code of Criminal Procedure. Counsel submits that the petitioner is now retired. He submits that petitioner is ready to pay the maintenance amount and also want to comply the order but the said amount, which has been fixed by the Court as Rs. 16,000/- per month should be fixed on the basis of the intake amount which he is going to receive after retirement. On Merit, he is not interested to pursue anything.

Counsel for the State submits that the if petitioner's request shall be accepted by this Court then in this view of the

matter, petitioner's payment shall be calculated in three different modes.

The first mode is by virtue of order passed in Maintenance Case no.45 of 1993 under Section 125 of the Code of Criminal Procedure, i.e., Rs. 300 per month w.e.f. the order, applicable upto 12.02.2020, when enhancement has been made.

The second part of the order shall be effected from 12.02.2020 onwards, i.e., at the rate of Rs. 16,000/- per month. And the third part shall be from the date of retirement onwards by the Principal Judge, Family Court, Bhagalpur.

In the above facts and circumstances and particularly on the basis of undertaking made by the petitioner, Principal Judge, Family Court, Bhagalpur, is directed to calculate the entire arrear at the rate of Rs. 300/- per month, from the date of order to 12.02.2020 plus Rs. 16,000/- per month w.e.f. 12.02.2020 to the date of retirement and after going through the concerned paper, one-third of the total amount should be ascertained w.e.f. the date of retirement onwards.

Principal Judge, Family Court, Bhagalpur is free to take action for execution and realisation of the amount, in the light of **Sarfaraj Alam @Md. Sarfaraj Vs. State of Bihar & Ors.** reported in **2023(1) PLJR 756**.

The petitioner is directed to produce the pension paper before the Principal Judge, Family Court, Bhagalpur. It is also directed that if petitioner shall not produce his pension paper before the Principal Judge, Family Court, Bhagalpur within 60 days from the date of order, then Family Court, Bhagalpur shall presume that petitioner wants to linger the matter and in that situation Principal Judge, Family Court shall calculate w.e.f. 12.02.2020 on enhanced rate of Rs. 16,000/- per month.

With the aforesaid direction, this Cr. Revision application is hereby allowed.

(Dr. Anshuman, J.)

Ashishsingh/-

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