

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.706 of 2017

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

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Rajesh Kumar Bhagat S/o Sri Jhulan Mali, R/o Village-Sonbarsa, P.S.-
Bariya, Distt.- Balia (U.P.), presently Residing & working- Rajesh Kumar
Bhagat (S.T.R.) Sepoy Unit APR 114C/056 APO, Hisar (Hariyana)

... .. Petitioner/s

Versus

1. State Of Bihar
2. Asha Devi w/o Rajesh Kumar Bhagat, Daughter of Sri Madan Bhagat,
Resident of Village- Sonbarsa, P.S.- Bariya, Distt.- Balia (U.P.), presently
residing at Village- Revadi, P.S.-Kopa, District-Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Tiwary, Advocate
For the Respondent/s : Mr. Sri Manoj Kumar – 1, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-04-2023

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

The present criminal revision application has been filed
against the order dated 28.03.2017 passed by Principal Judge,
Family Court, Saran at Chapra in Maintenance Case No. 74 of
2009 by which direction was made to pay Rs.15,000/- per
month to opposite party no.2 and her children as maintenance
including education expenses of the children.

Counsel for the petitioner directly submits that he is not
questioning the legality and propriety of the case. He is seeking
only question of correctness that the trial Judge has reached on

the finding that petitioner was getting Rs.50,000/- per month in the month of April, 2017 is not correct. He has annexed his salary certificate (Annexure-P2) in which it was there that the net pay he was receiving Rs.38,860/- i.e. approxly Rs.40,000/-. Counsel for the petitioner submits that in this background, his maintenance amount may be decreased.

Counsel for the opposite party no.2 submits that vide order dated 12.04.2018 the maintenance amount has already been decreased by the order passed by this Hon'ble Court and since 12.04.2018 he is paying only Rs.7500/-.

Counsel for the petitioner and counsel for the opposite party has agreed that whatever money he received prior to order dated 12.04.2018 and whatever be the money O.P. No.2 has received after 12.04.2018 she has no grievances for the same but the amount which the petitioner is receiving after retirement is GPF, Gratuity, Pension as well as earning from his new employment which the petitioner started after his retirement and in this view of the matter, the amount fixed by the Court may not be decreased and it is directed to continue.

In this background, this Court is directed that the petitioner shall pay Rs.15000/- per month from today onward and for arrears amount the O.P. No.2 shall not claim.

With this direction, this Criminal Revision application is allowed and directed to continue the monthly payment of Rs.15,000/- from today i.e. the date of order and Principal Judge, Family Court, Saran at Chapra is directed to look into the matter and only assure that whether the petitioner has paid Rs.7500/- to O.P. No.2 continuously with effect from 12.04.2018 to 13.04.2023 or not and also to ascertain that whether the petitioner had paid Rs.15,000/- to the O.P. No.2 from the date of order to 12.04.2018 or not, if it appears upon going through the documents that the said payment has not been made by the petitioner, Principal Judge, Family Court is directed to realize the same as an arrear and for that he free to issue process under Form 18/19 of Schedule-II of Cr.P.C..

With this direction, order dated 28.03.2017 passed by Principal Judge, Family Court, Saran at Chapra in Maintenance Case No. 74 of 2009 is hereby modified.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	