

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.948 of 2018**

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

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Rakesh Kumar Thakur S/o Suresh Thakur , R/o Vill.- Pasraha , P.S.- Pasraha,  
District- Khagariya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sima Devi W/o Rakesh Kumar Thakur, R/o Pasraha , P.S.- Pasraha, District-  
Khagaria at present D/o Subhunklal Thakur, R/o Vishkarmanagar Pakraik,  
P.S.- Mahekhunt, District- Khagaria.

... .. Respondent/s

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**Appearance :**

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| For the Petitioner/s | : | Mr.                               |
| For the State        | : | Mr. Akhileshwar Dayal, APP        |
| For the O.P.No.2     | : | Mr. Shekhar Kumar Singh, Advocate |

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

4      05-12-2023                      No one appears on behalf of the petitioner.

2. Learned counsel for the opposite party no.2 is present with the opposite party no.2 and her minor son. The minor son is aged about 9 years and is suffering from cancer. Some medical documents of Buddha Cancer Centre has been placed before this Court.

3. Learned counsel for the opposite party no.2 submits that by order dated 22.04.2019 when this Court directed the petitioner to pay some amount and later on a distress warrant was issued by the learned court below, the petitioner paid some money but thereafter he is not paying a single farthing. At the same time, learned counsel for the petitioner is not appearing, therefore, this case being that of the year 2018 is not getting

disposed of. A request has been made to decide the matter on the basis of the materials available on the record.

4. In view of the submissions made on behalf of the opposite party no.2, considering the fact that she is waiting for a judgment in this case since the year 2018 and even as there is no order of stay of the impugned judgment, her husband (the petitioner) is not paying a single farthing, this Court deems it just and proper to dispose of the present revision application on its own merit on the basis of the materials available on the record.

5. This revision application has been preferred for setting aside the order dated 12.06.2018 passed by the learned Principal Judge, Family Court, Khagaria in Maintenance Case No.63M/2016 whereby and whereunder the learned Principal Judge, Family Court has allowed a sum of Rs.5,000/- per month maintenance to the opposite party no.2 and a sum of Rs.3,000/- to the minor son who has not been impleaded as party in this case. The maintenance amount have been ordered to be paid with effect from the date of the application i.e. 02.09.2016.

6. It appears on perusal of the impugned order that the applicant was married to this petitioner on 23.05.2011 in accordance with the Hindu Rites and Customs. She alleged that

the petitioner ill treated her and ousted her with a minor son aged about three years from the matrimonial home. It is further alleged that this petitioner has entered into a second marriage. The applicant-opposite party no.2 alleged that her husband was neglecting her and her minor son and he was not maintaining them. According to the applicant, her husband was earning as a mechanic in the electrical tower and he was earning at least Rs.30,000-35,000 per month. He also got some cultivable land from which he was having an income of Rs.2 lacs per annum.

7. This petitioner being the husband of the applicant appeared in the court below and opposed the application. He submitted that he was working as a labourer and hardly earns about Rs.2,000/- per month by doing physical labour. He also claimed that the applicant had left his house on her own volition.

8. In the court below, both the parties led their respective evidences. On behalf of the applicant, three witnesses were examined whereas on behalf of the opposite party-petitioner five witnesses were examined. The learned Presiding Officer, Family Court has discussed the entire evidences and finally concluded that the petitioner is working in the tower line. Having found that the petitioner was earning sufficiently

whereas the applicant had no income, the learned Presiding Officer, Family Court, Khagaria has awarded a sum of Rs.5,000/- as maintenance per month to the applicant-wife and Rs.3,000/- per month to the minor son.

**9.** In the revision application, the main contention of the petitioner is that he is a labourer, his monthly income is only Rs.4000-5000 and his parents are also dependent upon him.

**10.** This Court has perused the materials on the record and has carefully gone through the impugned judgment in which evidences are fully discussed. In the opinion of this Court, the impugned order has been passed on the basis of the evidence brought on the record showing that this petitioner was working as a mechanic in the electrical tower and he was also having cultivable land. The amount awarded to the applicant cannot be said to be excessive as it hardly comes to Rs.170/- per day. In the present days even a labourer who is able-bodied person earns at least Rs.400/- per day. The minor son is suffering from cancer and it is not only a pious obligation but legal obligation upon the petitioner to take care of him.

**11.** In the circumstances, this Court finds no reason to interfere with the impugned order. This revision application is dismissed.

**12.** The learned Principal Judge, Family Court, Khagaria shall proceed to take appropriate steps to execute the impugned order and ensure that the entire maintenance amount is duly realized from the petitioner and paid to the opposite party within a period of two months from the date of receipt/production of a copy of this order.

**(Rajeev Ranjan Prasad, J)**

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