

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.618 of 2017

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

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Rajesh Kumar, son of Bino Mahto, Resident of Village Barahiya Bahapar,
P.S. Maranchi, (Panchmahala O.P.). District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sangeeta Suman, Ex. Wife of Rajesh Kumar, daughter of Hari Mahto,
Permanent resident of village Bakhari, P.S. Bakhari, District Begusarai
presently working as A.N.M. at Primary Health Centre Khodabandpur,
District- Begusarai.
3. Sushant Kumar aged about 7 years, son of Rajesh Kumar, represented by
natural guardian and mother namely Sangeeta Suman residing on the above
mentioned address.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Om Prakash Maharaj, Adv.
For the Respondent/s	:	Mr. Dr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 23-03-2023

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

The petitioner has filed the present criminal revision
for setting aside the order dated 09.03.2017 in Maintenance
Case No. 93(M)/ 2012 passed by learned Principal Judge,
Family Court, Begusarai by which the Court has directed the
petitioner to pay Rs.5,000/- per month to the ex-wife from the
date of filing of the case i.e. 09.07.2012 and Rs.3,000/- per

month to the minor son towards maintenance from the date of his birth i.e. 10.05.2010 and also the litigation cost Rs.200/- per month from the date of filing of the case till the date of judgment.

Counsel for petitioner has raised 2 important points in this case. The first point he has raised that his wife is already working as nurse and second point he has raised that his wife after divorce entered into marriage. Learned counsel further submits that upon going through the judgment, it transpires that both the issues are not framed in the said judgment/ order.

Learned counsel for State submits that this Court is hearing criminal revision in revisional jurisdiction and not in appellate jurisdiction. The point which counsel for petitioner is raising are relating to the appellate jurisdiction.

Upon considering the merit of the case from the petitioner and the State, this Court is of the view that under revisional jurisdiction, the question of legality, correctness and propriety has to be tested. This Court is not in appeal. As such, the point of marriage was not raised there but the point of her service was considered and rejected by the Court with reason. This Court feels that there is no merit in the present criminal revision, therefore, it is hereby **dismissed**.

It is important to note here that under Hindu Law, a divorced women is also entitled for maintenance till she has not entered into marriage. Here in the present case, the divorcee is living with minor son of her ex-husband and considering that the Court has granted maintenance to private O.Ps.

In the garb of pendency of litigation, the petitioner has never paid money to the private O.Ps. Counsel for petitioner submits that at the time of granting anticipatory bail to the petitioner, this Hon’ble Court has directed to pay Rs.1,800/- per month, upon production of the said order before the Court below, the Court shall adjust the same amount in the maintenance and then actual figure shall be mentioned in Form 18 and 19 of Schedule II of Cr.P.C.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	