

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35410 of 2015

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

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Sushila Devi wife of Rajiv Kumar, daughter of Om Prakash Yadav, resident of Anishabad near Telephone Exchange, P.S.- Beur, District- Patna, at present resident of village- Sawajpur, P.S.- Jehanabad, District- Jehanabad

... .. Petitioner/s

Versus

Raju Kumar son of Sri Shailesh Kumar, resident of Mohalla- Anishabad near Telephone Exchange, P.S.- Beur, District- Patna, at present posted as Lance Nayak, Indian Army, Signal Department, Jhansi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate
For the Opposite Party/s : Mr. Arvind Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 24-02-2023 Heard Mr. Rama Kant Sharma, learned Senior Counsel for the petitioner and Mr. Arvind Prasad Singh, learned counsel who represent the other side.

The present petition has been preferred for quashing of the order dated 22.5.2015 passed in Maintenance Case No. 46 of 2014 by learned Principal Judge, Family Court, Jehanabad.

On 28.2.2019, a coordinate bench of this Court passed the following order:

A counter affidavit has come in the matter that include the salary slip of the opposite party no.2 Raju Kumar and according to which the opposite party is getting around Rs. 52,000/- per month. The affidavit is of the year 2019.



Learned Senior Counsel submits that internal page 9 of the order passed by the learned Principal Judge, Family Court, Jehanabad on 22.5.2012 shows that he had taken the total salary of the opposite party as Rs. 35,127/- and accordingly Rs. 5000/- was granted as maintenance. He submits that an affidavit of 2019 clearly shows otherwise inasmuch as, the salary has been found to be Rs. 52,263/-. Even deducting some amount as reflects from the salary slip, he is receiving handsome amount in his hand.

Learned Senior Counsel for the petitioner as such submits that this poor helpless lady being forced to stay at the home of her parents who are farmers are unable to even cater to her basis needs. It is unfortunate that a lady whose husband is serving Indian Army is leading a very precarious life.

Learned counsel for the opposite party on the basis of counter affidavit has narrated that he has to cater to the needs of his family members including his retired father and as such the learned Court has rightly fixed the amount of Rs. 5000/- which should not be interfered with.

Having heard the respective parties and gone through the different annexures including the salary slip of the opposite party Raju Kumar which has been put on affidavit in 2019



showing his total salary as 52,263/-, this Court has no hesitation in holding that the amount as has been ordered by the learned Principal Judge, Jehanabad has to be enhanced even considering the facts that the same dates back in 2015 and now we are in 2023.

Accordingly, the order dated 22.5.2015 passed in Maintenance Case No. 46 of 2014 by learned Principal Judge, Family Court, Jehanabad is modified to the extent that beginning March, 2023, the petitioner will be entitled to an amount to Rs. 12,500/- per month which will be credited in her bank account to be provided by the learned counsel for the petitioner to the informant's side. The said transfer should be made by 10th of every month positively, if the account number is not available.

With the aforesaid direction, the petition stands allowed.

(Rajiv Roy, J)

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