

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1032 of 2016

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

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Manoj Kumar Sinha Son of Late Ramanand Shrivastava, Resident of Village-Kherma, P.O. P.S. District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Archana Sinha @ Doli wife of Manoj Kumar Sinha, Daughter of Dayanand Prasad.
3. Shakshi Shrivastava aged about 15 years minor, Daughter of Manoj Kumar Sinha.
4. Tanu Shrivastava aged about 13 years minor, Daughter of Manoj Kumar Sinha.
5. Lucky Shrivastava aged about 10 years minor Son of Manoj Kumar Sinha, Opposite Party Nos. 3 to 5 are minor and under the Care & Guardianship of At present all Resident of Mohalla- Officer's Colony Mirchaibari, Police Station- Sahayak Katihar, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Adv.
	:	Mr. Najmul Hodda, Adv.
For the Respondent/s	:	Mr. Sri Anish Chandra, APP.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-03-2023

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

The present Cr. Revision has been filed against the
impugned order dated 17.08.2016 in Maintenance Case No.121
of 2012 passed by learned Principal Judge, Family Court,
Katihar by which petitioner was directed to pay Rs.5,000/- per
month to the opposite parties (O.P. No.2 to 5 - wife and 3
children) from the date of order.

Learned counsel for the petitioner submits that the petitioner is poor auto driver and he is unable to pay such amount. He further submits that the opposite party no.2 is a school teacher and she is receiving Rs.10,000/- per month, by which, she can maintain herself.

Learned counsel further submits that from the record, it transpires that this case is of the year 2016 and at that very time the age of 3 minor children were 15 years, 13 years and 10 years. Eight years had already been lapsed, as such, all the children become major now. He further submits that those aspect may be considered at the time of deciding of this case.

Learned counsel for the State submits that there is no need of any interference in the order impugned passed by Principal Judge, Family Court, Katihar. He further submits that the present petitioner has appeared in this case and opportunity has been granted to the counsel for the petitioner before the Trial Court 7 times. He also submits that the question of capacity to pay maintenance to wife and children has been framed as a separate issue and well discussed and answered in favour of opposite party no.2 to 5. He further submits that it is admitted that the petitioner is a driver. In the finding the income of wife was not ascertained due to lack of evidence and

thereafter Court has fixed Rs.5,000/- per month for all the 4 persons (wife and 3 children) payable from the date of order.

Upon going through the order sheet/ judgment dated 17.08.2016 passed in Maintenance Case No.121 of 2012, I found no question of any legality and propriety are there in the said impugned judgment/ order. So far as the question of correctness is concerned, due to long pendency of the criminal revision, it requires certain modification because all the 3 children become major now and in the order sheet there is no bifurcation of the maintenance amount made but due to depreciation of the market value of rupee, this Court is of the opinion that all the 3 minors become major and this Rs.5,000/- shall be sufficient for the wife only.

It transpires from the record that petitioner is paying Rs.750/- per month in compliance of order dated 19.03.2014 passed in Cr. Misc. No. 821 of 2014, as such, from the order passed in the present Cr. Revision the petitioner shall be entitled to pay Rs.4,250/- to the opposite party no.2 after adjustment of Rs.750/- per month according to order of Cr. Misc. No. 821 of 2014 out of total is Rs.5,000/-.

There is no need of any interference in the order passed by the Principal Judge, Family Court, Katihar except the

observation made.

It is directed to the Principal Judge, Family Court, Katihar that for the purpose of realization of arrear amount and the current maintenance amount, he shall issue process according to the provision of Cr.P.C. as mentioned in Form 18 & 19, in case the payment has not been made within 2 months from the date of communication of the order.

Accordingly, the present Cr. Revision stands disposed off, and order impugned has been ratified up to that extent.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	