

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1127 of 2017

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

1. Sunita Kumari Kashyap and Anr wife of Sanjay Kumar Saini and daughter of Ramautar Malakar, Resident of Magach Colony, Road No. 10, House No. 404, P.S. Magadh Medical, District Gaya.
2. Lisa @ Alisha Minor, daughter of Sanjay Kumar Saini under the guardianship of her mother Sunita Kumari Kashyap Resident of Magach Colony, Road No. 10, House No. 404, P.S. Magadh Medical, District Gaya.

... .. Petitioner/s

Versus

Sanjay Kumar Saini son of Haricharan Ram, Resident of Bulakmantoli, Doranda, P.S. Doranda, District- Ranchi Jharkhand.

... .. Respondent/s

with

CRIMINAL REVISION No. 1098 of 2017

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

Sanjay Kumar Saini Son of Haricharan Ram Resident of Bulakmantoli, Doranda, Police Station - Doranda, District - Ranchi Kharkhand.

... .. Petitioner/s

Versus

1. Sunita Kumari Kashyap and Anr Wife of Sanjay Kumar Saini and Daughter of Ramautar Malakar
2. Lisa Minor Daughter of Sanjay Kumar Saini and under guardianship of her mother Both above are residents of Magadh Colony, Road No. 10, House No. 404, Police Station - Magadh Medical, District - Gaya, Bihar.

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 1127 of 2017)

For the Petitioner/s : Mr. Shailesh Kumar, Advocate
For the Respondent/s : Mr. Bindhyachal Singh, Sr. Advocate
Mr. Vipin Kumar Singh, Advocate

(In CRIMINAL REVISION No. 1098 of 2017)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Advocate
Mr. Vipin Kumar Singh, Advocate
For the Respondent/s : Mr. Shailesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 07-12-2023

Cr. Revision No.1127 of 2017 has been preferred for



setting aside the order dated 21.07.2017 passed by learned Principal Judge, Family Court, Gaya in Misc. Case No.50 of 2008 whereby and whereunder the sole opposite party who is husband of the petitioner no.1 has been directed to pay a maintenance amount of Rs.6000/- per month to the petitioner no.1 and a sum of Rs.4000/- per month to the petitioner no.2 on or before the 10th day of every succeeding English calendar month. The direction to pay maintenance has been made applicable with effect from 10.12.2015 and the opposite party no.2 has been directed to pay the arrears within two years from the date of the present order.

2. Cr. Revision No.1098 of 2017 has been preferred for setting aside the order dated 21.07.2017 passed by learned Principal Judge, Family Court, Gaya in Misc. Case No.50 of 2008 whereby and whereunder the petitioner has been directed to make monthly payment of Rs.6000/- per month as maintenance to the opposite party no.1 who is wife of the petitioner and Rs.4000/- per month as maintenance to opposite party no.2 who is minor daughter of the petitioner. The direction to pay the maintenance has been made applicable with effect from 10.12.2015.

3. Learned counsel for the petitioners in Cr. Rev. No.



1127 of 2017 moved this Court with a prayer to enhance the maintenance amount as, according to him, the learned Principal Judge, Family Court could not appreciate that the total income of the opposite party from his salary as Manager of Sahara India as also from other sources would be not less than Rs.71,000/- per month.

4. The submissions of learned counsel for the petitioners were contested by Mr. Bindhyachal Singh, learned senior counsel representing the opposite party. Learned senior counsel submitted that in fact the opposite party was an employee of Sahara India and at the relevant time his take home salary was only Rs.21,186/-. He relied upon the findings recorded in the impugned order on the basis of the certificate issued by the command office, Sahara India.

5. After hearing learned counsel for the parties for some time, this Court passed an order on 09.10.2023 at the instance of learned counsel for the petitioners to enable him to seek instruction as to whether there has been compliance with the procedures laid down by the Hon'ble Supreme Court in the case of Rajnesh Vs. Neha & Ors. reported in (2021) 2 SCC 324.

6. Learned counsel for the petitioners has submitted on instruction that perhaps some affidavits were taken from the



petitioner no.1 who is admittedly practicing as an advocate in the Civil Court at Gaya for last 19-20 years and she is presently working as Assistant Public Prosecutor as well.

7. In course of hearing, Mr. Bindhyachal Singh, learned senior counsel informs this Court that a divorce case filed by the opposite party being Matrimonial Case No. 216 of 2010 has already been decreed by the learned Principal Judge, Family Court, Gaya. The marriage between the parties has been dissolved and a permanent alimony of Rs. 5 lacs has been fixed. At the same time, the learned Principal Judge, Family Court has allowed a monthly maintenance of Rs.6000/- per month to the petitioner no.1 which is not justified. Learned senior counsel, however, on instruction, submitted that the opposite party is ready to take care of the maintenance of the minor daughter, her education and the marriage expenses to the extent possible from his earnings. It has been submitted that the petitioner no.1 is having sufficient earning as a legal practitioner and APP, therefore, she should also contribute in meeting the expenses of the daughter.

8. Learned senior counsel for the opposite party submitted that on the one hand the petitioner no.1 is seeking maintenance and has got a decree for permanent alimony but at



the same time she is prosecuting the opposite party and keeping him engaged in contesting litigations and saving himself from the cases which have been lodged at the instance of the petitioner no. 1 and all are arising out of matrimonial discord. Learned senior counsel submits that if the petitioner no.1 wants an amicable resolution of the dispute and she agrees to drop the criminal prosecution levied against the opposite party, the opposite party would be in a better position to earn and pay some substantial amount to meet the expenses of his daughter. Learned senior counsel has, on instruction, offered a sum of Rs.10,000/- per month consolidated to meet the maintenance and educational expenses etc. of his minor daughter. He also submits that at the time of marriage the opposite party shall contribute towards the expenses.

9. In view of what transpired in course of hearing between the parties through their learned counsel, this Court requested learned counsel for the parties to come out with complete instructions after due deliberations with the respective parties. The case was heard on 05.12.2023 and it was posted 'For Orders' yesterday, however, yesterday being a different list, it has been listed today 'For Orders'.

10. Mr. Shailesh Kumar, learned counsel for the



petitioners submits on instruction that the petitioner no.1 is ready to drop the criminal prosecution of the opposite party and she would ensure that the criminal case(s) either under the provisions of the I.P.C. or under any other special statute such as Domestic Violence Act be dropped/withdrawn if the opposite party agrees to pay a sum of Rs.10,000/- per month and undertakes to contribute as and when required towards the marriage of the daughter.

11. The petitioner no.1 shall, however, keep her right reserve to execute the decree of permanent alimony in accordance with law. She agrees not to file any further criminal case in connection with the matrimonial disputes against the opposite party.

12. Mr. Bindhayachal Singh, learned senior counsel assisted by Mr. Vipin Kumar Singh, advocate submits on instruction that the opposite party shall start paying Rs.10,000/- per month consolidated amount with effect from the month of December, 2023 and shall pay the same within first ten days of every succeeding month. Learned senior counsel submits that the petitioner no.1 must take steps for dropping/withdrawal of the prosecution or any other criminal case lodged by her against the opposite party immediately after getting the first payment of



Rs.10,000/- per month.

13. Learned senior counsel further undertakes that the opposite party shall appear in Misc. Case No.216 of 2010 pending in the court of learned Principal Judge, Family Court, Gaya and shall contest the same in accordance with law.

14. Having regard to the kind of developments which have taken place, as recorded by this Court hereinabove in presence of learned counsel for both the sides, this Court is disposing of both the revision applications with consent of the parties in the following terms:-

(i) the opposite party in Cr. Rev. No. 1127 of 2017 shall pay a sum of Rs.10,000/- consolidated amount every succeeding month within first ten days in the account of petitioner no.2 which will be taken as maintenance amount for the minor daughter and the same will be utilized towards her maintenance and educational expenses.

(ii) the opposite party shall contribute towards the marriage expenses of the daughter as and when required.

(iii) the petitioner no.1 shall take immediate steps after getting first payment of maintenance of Rs.10,000/-, to drop/withdraw the prosecution of the opposite party and she shall withdraw the criminal cases as also D.V. cases if any with



permission of the court and in no way harass the opposite party in those criminal cases. She would ensure that the criminal cases come to an end and the prosecution is stopped as early as possible. The learned court in which the cases are pending are expected to take up those matters as expeditiously as possible.

(iv) The petitioners shall not claim any other or further amount on account of arrears and at the same time the opposite party shall not claim any adjustments of the amount already paid against the current maintenance.

(v) The opposite party shall appear in Misc. Case No.216 of 2010 and he would be free to contest the case in accordance with law.

(vi) No part of this order shall prejudice the case of the either parties in the said miscellaneous case.

15. The impugned order stands modified to the extent indicated hereinabove.

16. Both the revision applications are disposed of.

(Rajeev Ranjan Prasad, J)

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