

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.539 of 2018

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

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1. Dr. Mukesh Kumar S/o Late Uday Kumar Singh,
 2. Manju Singh @ Manju Devi W/o Late Uday Kumar Singh,
Both are R/o Mohalla- Shailbagh (Aliganj), P.S.- Mojahidpur, O.P.
Babarganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Lushi Kumari W/o Dr. Mukesh Kumar, D/o Raghunandan Prasad Singh,
R/o Vill.- Konipar, P.O.- Dighri, P.S.- Surajgarha, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hansraj, Adv.
	:	Mr. Mayank Bilochan, Adv.
For the State	:	Mr. Bal Mukund Prasad Sinha, APP.
For the O.P. No.2	:	Mr. Krishna Ranjan, Adv.
	:	Mr. Rajnandan, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 17-04-2023

Heard learned counsel for the petitioner and learned A.P.P. for the State as well as learned counsel for the O.P. No.2.

The present Cr. Revision Application has been filed against the order dated 28.03.2018 passed by Additional District and Sessions Judge-I, Lakhisarai in Cr. Appeal No. 3 of 2013, by which, the order dated 26.02.2013 passed by Chief Judicial Magistrate, Lakhisarai in Misc. Case No. 11 of 2012 under Section 12 of Protection of Women from Domestic Violence Act, 2005 (43 of 2005) has been affirmed by which petitioner



was directed to pay Rs.15 lacs to the opposite party No.2 within a period of two months and also Rs.5 lacs as compensation and further Rs.25,000/- per month as maintenance and same shall be paid in the first week of every month.

Learned counsel for the opposite party No.2 submits that the order passed by Chief Judicial Magistrate has been passed after issuance and service of summons. Learned counsel submits that from the order dated 26.02.2023, it transpires that under the Protection of Women from Domestic Violence Act, 2005 notices were issued upon the petitioner who has not appeared, thereafter, general notice was published in *Dainik Jagran*, Bhagalpur even then the petitioner failed to appear, then the case was fixed *ex-parte* and the order has been passed thereafter. He submits that the order is well reasoned order and there is no need of any interference.

It has been further submitted that the said order passed in Protection of Women from Domestic Violence Act, 2005 was challenged in appeal before the Sessions Court and the Sessions Court without entering into the merit of the case has dismissed the appeal on the ground that the appeal was hopelessly time barred.

The appellate court has passed final order on



28.03.2018 thereafter the petitioner has preferred the present Cr. Revision Application challenging both the orders.

Learned counsel for the petitioner submits that in addition to D.V. Act, opposite party No.2 has filed case under Section 125 of Cr.P.C. and Rs.3,000/- per month was directed to be paid to the petitioner. He submits that the court of Chief Judicial Magistrate has to consider necessarily that there is already order of maintenance of Rs.3,000/- per month which was directed to be paid by the Principal Judge, Family Court in proceeding under Section 125 of Cr.P.C. but this aspect has never been considered, as such, the adjustment of the said amount is necessary to be made in the amount fixed by the court passing order under Protection of Women from Domestic Violence Act, 2005.

Learned counsel for the opposite party No.2 fairly submits that Principal Judge, Family Court has passed order on 13.05.2013 to pay Rs.3,000/- per month.

Learned counsel further submits that the decrease may be made only and only when the petitioner shall show before the court that he is paying Rs.3,000/- in compliance of order passed by Principal Judge, Family Court.

It is made clear that total liability of payment upon



the petitioner shall not be of Rs.28,000/- and it shall remain only Rs.25,000/- per month considering both the orders for maintenance i.e. under Protection of Women from Domestic Violence Act, 2005 as well as under Section 125 of Cr.P.C.

Question of legality, correctness and propriety are not raised here.

In the light of above said facts and circumstances, this Court is of the view that instead of Rs.25,000/- per month, opposite party No.2 is entitle to receive payment after adjustment of Rs.3,000/-, as such, Rs.25,000/- is hereby decreased to Rs.22,000/- per month. This finding is only relating to the maintenance amount rest, order shall operative as usual.

With this direction, the present Cr. Revision Application stands allowed and the order dated 28.03.2018 passed by Additional District and Sessions Judge-I, Lakhisarai in Cr. Appeal No. 3 of 2013 is modified up to that extent.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

