

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1357 of 2018

In

Miscellaneous Appeal No.603 of 2018

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

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Binita Devi W/O Pankaj Kumar Village and Post - Madhopur Dighaura, P.S. -
Tajpur, District- Samastipur, and D/O Nagendra Rai, of Village Bahuara
Kothi, P.O.- Krishnwara, P.S. - Patepur, District - Vaishali.

... .. Petitioner/s

Versus

Pankaj Kumar S/o Paricharan Rai Village and P.O. Madhopur Dighwarua, P.S.
- Tajpur, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Advocate

For the Respondent/s : Ms. Asha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

4 18-12-2023 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. Having heard the learned advocate for the petitioner, on perusal of the impugned order dated 31.03.2018 which has been passed in Maintenance Case No.29 of 2014 by the learned Principal Judge, Family Court, Vaishali at Hajipur it appears that the learned Judge refused to grant any maintenance allowance in favour of the petitioner on the ground as recorded in paragraph no.11 of the impugned order that the petitioner is employed as Anganbari Sahayika and she earns Rs.1700/- to Rs.1800/- per month. It is not in dispute that the petitioner has been residing separately with her two minor children. The maintenance allowance was prayed for by the petitioner for



herself and her two children.

3. The order impugned is *per se* illegal, if not, perverse on the ground that even if on consideration of the evidence on record, the learned Judge found that the petitioner was not entitled to get maintenance, it is the duty of the opposite party being the father of the said two minor children who are reared and maintain by the petitioner to allow maintenance allowance for them. The learned Judge did not even consider their case.

4. It is also submitted by the learned advocate for the petitioner that the learned Trial Judge was wrong in holding that the petitioner and her children have been living at her matrimonial home. According to the learned advocate for the petitioner that the said finding is absolutely born out of record.

5. Considering such circumstances, the impugned order dated 31.03.2018 is set aside and quashed. The Principal Judge, Family Court, Vaishali is directed to right down a fresh judgment on the basis of the evidence on record already adduced by the parties.

6. Accordingly, the revision application is thus, allowed.

(Bibek Chaudhuri, J)

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