

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.1372 of 2018**

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

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Basannt Raj Singh S/o Sri Shatrughan Singh, Permanent resident of Village-  
Phular (Chhap), P.S.- Paroo, District- Muzaffarpur.

... .. Petitioner

Versus

Summi Priya D/o Late Dhananjay Kumar Singh and W/o Sri Basannt Raj  
Singh, Resident of Muraul, P.S.- Sakra, District- Muzaffarpur.

... .. Opposite Party

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**Appearance :**

For the Petitioner : Mr.

For the Opposite Party : Ms. Madhubala Verma, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

6      12-10-2023

No one appears on behalf of the petitioner.

2. Learned counsel for the opposite party is present.

3. This revision application has been filed for setting aside the order dated 10.08.2018 passed by learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 196 of 2016 whereby and whereunder the learned Family Court has been pleased to allow a sum of Rs.10,000/- per month towards maintenance of the wife-applicant and accordingly, directed the husband-opposite party to make payment of the maintenance amount by 10<sup>th</sup> day of every month to the applicant-wife. Maintenance has been allowed from the date of filing of the application i.e. 21.06.2016.

4. Learned counsel for the opposite party submits that while issuing notice to the opposite party vide order dated 02.12.2019, this Court stayed further proceeding in Maintenance



Case No. 196 of 2016 till further orders, as a result whereof, the petitioner has not paid a single farthing to his wife who is opposite party before this Court. Learned counsel submits that since the petitioner is enjoying an interim order for last four years and is not participating in the hearing of the revision application, this Court may consider the case on its own merit on the basis of the materials on the record and pass an appropriate order.

5. Learned counsel for the opposite party has also taken this Court through the impugned judgment of the learned Family Court. The findings of the learned Family Court as recorded in paragraphs '6' to '8' of the impugned judgment have been referred to. It is contended that the relationship between the petitioner and the opposite party as that of husband and wife is not in dispute. Both the parties have led their respective evidences in the learned court and only after appreciation of their evidences, the court has recorded a finding whereunder the petitioner has been found liable to maintain his wife. On the quantum of income also, the learned Family Court, Muzaffarpur has given ample consideration as to the sources of income of the petitioner and has taken a reasonable view of the matter by awarding a sum of Rs.10,000/- per month only.

6. This Court has gone through the materials available on the record. It appears on perusal of the impugned judgment that the parties were wedded to each other on 30.01.2015 in accordance



with Hindu Rites and Customs at Village-Muraul, P.S.-Sakra, District-Muzaffarpur. The opposite party claims that she was ousted from the matrimonial house on 21.05.2016 for which she filed a complaint case on 13.06.2016 in the court of learned C.J.M., Muzaffarpur. She alleged that despite several requests to the petitioner to take care of the opposite party when he did not accept the request of the opposite party and as a result of that the opposite party was unable to maintain herself, she filed a maintenance case under Section 125 Cr.P.C. giving rise to Maintenance Case No. 196 of 2016 in the court of learned Principal Judge, Family Court, Muzaffarpur.

7. This Court further finds that in the maintenance case, the husband who was opposite party appeared and filed his written statement. He alleged that his mother-in-law used to pressurize him to live in her house as '*gharjamai*' which he refused and that became the point of annoyance. He submitted that he was earlier working in Prime Focus Company but now he was detached from service and as regards income, he denied the claim of the applicant-wife. He also asserted that the house situated at Muzaffarpur is the house of his mother and he has no share in it. He had no ancestral land and his grandfather was under below poverty line.

8. It further appears that in the learned court below both the parties were allowed to lead their respective evidences. While



the applicant-wife examined herself and in support of her case, her mother also filed an affidavit and withstood the test of cross-examination, the husband-O.P. examined altogether four witnesses. As regards the source of income, the opposite party-husband admitted in the court below that he was working in Prime Focus Company and his salary was Rs.25,000/-. In his cross-examination, he admitted that he is visual artist too. The learned Principal Judge, Family Court concluded from the materials on the record that the husband-O.P. is a visual artist doing job at film world at Mumbai and he has got sufficient income.

9. After perusal of the evidences on the record, learned Principal Judge has concluded in paragraphs '9' and '10' of the impugned judgment as under:-

"9. Considering all the facts and circumstances of the case and the materials available on the record as discussed above this court finds that applicant is the legally wedded wife of the O.P. It is also evident that O.P. is VFX artist in Film industries. It is also evident that applicant was living with the O.P. at Mumbai and where O.P. started misbehaving with the applicant and applicant was bound to return to her Naihar on 21.05.2016 and since then applicant is leading miserable life at her Naihar. O.P., in spite of having source of income not providing any maintenance to the applicant. It is also evident that applicant has filed complaint case against the O.P. that is still pending. It is also evident that O.P. never offered any maintenance nor took his wife (applicant) with his house. It is also evident that there is dispute in between the two sides regarding the income of the O.P. Applicant claims that O.P. is VFX artist in film world at Mumbai and he is



earning about Rs.60000/- per month and has two flats at Muzaffarpur and 10 bigha agricultural land. On the other hand, O.P. tried to show he is not attached to the Company in Mumbai as VFX Prime Focus Company and he is doing freelance work but he did not disclose his real income before the court. However, he was bound to disclose his income as per the provision of 106 of the Evidence Act. This court further finds that applicant has no source of income. She is unable to maintain herself that is also admitted by the witness of the O.P. O.P.'s witness admits that O.P. is VFX artist and he is doing freelance work at Mumbai. He is living in flat at Mumbai. This also shows that O.P. has sufficient source of income. Of course, he did not disclose the actual income who living in Mumbai in a flat and working in film industry as VFX artist itself shows that his income should not be less than Rs.50000/- per month. As per the provision of 125 of Cr.P.C. this is the legal obligation of the every husband to maintain his wife where the wife has no source of income and she is unable to maintain herself and the husband deliberately neglects his wife in providing maintenance. Applicant has no source of income and she is unable to maintain herself and she was misbehaved by her husband (O.P.) while she was living in Mumbai and she was forced to come back to her Naihar on 21.05.2016 along with her mother due to ill behaviour of the O.P. and since then O.P. in spite of having sufficient source of income is not providing any maintenance to the applicant.

10. So, under the facts and circumstances of the case, this court finds and hold that applicant is entitled for the maintenance from the O.P. as applicant has thoroughly proved her maintenance case against the O.P., so, considering all the facets of the case and taking into consideration the market structure, liabilities of the parties and the income of the O.P. Rs.10000/- maintenance allowance per month is just and proper to be awarded to the applicant.”

**10.** In the revision application also the petitioner has



admitted that he works as a freelancer and is living in Mumbai, however, his contention is that Mumbai is a very expensive place where he used to pay a monthly rent of Rs.9,000/- for one room and kitchen set-up.

11. This Court is satisfied from the materials on the record and the discussions made in the impugned judgment that the judgment does not suffer from any infirmity. The petitioner has avoided making any payment to his wife during all these years after obtaining an ex parte stay. On the quantum of maintenance also no infirmity could be found in the impugned order. Even otherwise, the Cr.P.C. provides adequate provision for alteration in allowance in case of any change in the circumstance of a person.

12. In the opinion of this Court, no interference is required with the impugned judgment.

13. This revision application has no merit. It is dismissed.

14. The Executing Court shall proceed to execute the judgment.

**(Rajeev Ranjan Prasad, J)**

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