

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.240 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Gaya

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ASHISH PRASAD @ ASHISH RANJAN PRASAD Son of Sri Banwari Prasad Resident of Sparsh Apartment, Plot No. 413, 1st Floor, Hanuman Nagar, Behind Pragati Sabhagruha, P.S.- Aajaini (Ajani), District - Nagpur (Maharashtra).

... .. Petitioner/s

Versus

1. SMT. SMITA PRASAD, Wife of Ashish Prasad @ Ashish Ranjan Prasad Resident of Sparsh Apartment, Plot No. 413, 1st Floor, Hanuman Nagar, Behind Pragati Sabhagruha, P.S.- Aajaini (Ajani), District - Nagpur (Maharashtra).
2. Miss Tanvi, Daughter of Sri Ashish Prasad @ Ashish Ranjan Prasad Under the guardianship of her mother namely Smt. Smita Prasad, both are presently residing at C/O Sri Yamuna Prasad, Mohalla - Shiv Shakti Colony, P.S.- Civil Lines, Town and District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Advocate Mr. Amit Kumar Mishra, Advocate
For the Opposite Party	:	Mr. Harish, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 02-04-2024 The petitioner is the husband of the opposite party no. 01 and the opposite party no. 02 is the minor daughter of the parties.

2. There is no dispute with regard to the marriage between the parties and the birth of a girl child in the wedlock between the petitioner and the opposite party no. 01. It is also not disputed that the petitioner used to work in a private company at the time of his marriage and on the date of his desertion.

3. The case of the opposite party no. 1 is that she, being the legally wedded wife, is entitled to be maintained



properly by her husband, but her husband had thrown her away along with their daughter and both of them have been residing at her parental home.

4. Under such factual matrix, the petitioner prayed for maintenance under the provision of Section 125 of the CrPC, which was registered as Misc. Case No. 122 of 2013 in the Family Court of the learned Principal Judge, Gaya, Bihar.

5. Learned advocate for the petitioner submits that the trial court granted maintenance allowance at the rate of Rs. 9,000/- per month from the date of the filing of the petition till the month of November 2019. From December 2019, the petitioner was directed to pay Rs.10,000/- per month towards maintenance of his wife and the minor child. It is not in dispute that the petitioner has been going on paying Rs. 6,000/- per month which was directed to be paid at the time of granting anticipatory bail by a Co-ordinate Bench of this Court.

6. Learned Advocate for the petitioner further submits that in compliance with the order dated 14th March 2024 passed by this Court, the petitioner has filed the supplementary affidavit with supporting documents stating, *inter alia*, that he was in service in a private company, namely, Vidarbha Industries Limited and on 17th August, 2020, he was terminated



from the service due to outbreak of Corona pandemic and stoppage of all industrial work in the country. He remains unemployed, therefore, he is not in a position to pay a sum of Rs. 10,000/- per month, in favor of the opposite party no. 1, towards maintenance.

7. Learned advocate appearing on behalf of the opposite parties, on the other hand, submits that the petitioner has been paying Rs. 6,000/- per month as condition of granting of anticipatory bail in a criminal case, instituted against him at the instance of opposite party no. 1. The impugned order was passed on 20th December 2019, when the petitioner was directed to pay Rs. 9,000/- per month till November 2019 and, thereafter, from the month of December 2019, he was directed to pay Rs. 10,000/- towards maintenance allowance in favor of the opposite party no. 1.

8. Even assuming that the petitioner has lost his job on 17th August, 2020, there is no reason cited by the petitioner as to why he defaulted in payment of maintenance allowance, at the rate of Rs. 9,000/- per month till November 2019, when he was in service. Again, the petitioner did not assign any reason as to why he failed to pay maintenance allowance at the rate of Rs. 10,000/- till July 2020.



9. I have found merit in the submission made on behalf of the opposite parties. It is not denied that the petitioner was in service till 19th August, 2020. The trial court held that the opposite party used to earn Rs. 30,000/- per month in the year 2017. The trial court granted one-third of the salary of the petitioner towards maintenance allowance till July, 2020. the petitioner, therefore, under obligation to pay Rs. 9,000/- per month from the date of filing of the application under Section 125 of the CrPC till the month of November 2019. The amount of Rs. 6,000/- which has been paid shall be adjusted from the aforesaid amount. From December 2019 to July 2020, the petitioner shall pay maintenance allowance at the rate of Rs 10,000/- per month.

10. Since, the petitioner has no source of income with effect from 20th August 2020, the petitioner is directed to pay maintenance allowance at the rate of Rs. 6,000/- per month from August 2020.

11. The instant writ petition is accordingly disposed of with the above order.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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