

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.437 of 2024

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

PRIYA RANJAN KUMAR @ PRIYA RANJAN SON OF MURARI PRASAD SINGH RESIDENT OF VILLAGE - TEGACHHI, P.S. - CHAUTHAM, DISTRICT - KHAGARIA

... .. Petitioner/s

Versus

1. HEMLATA KUMARI WIFE OF PRIYA RANJAN KUMAR, DAUGHTER OF MAHESH KUMAR MAHESH RESIDENT OF VILLAGE - CHAUKI, P.S. - SAHEBPUR KAMAL, DISTRICT - KHAGARIA (SASURAL-VILLAGE - TEGACHI, P.S. - CHAUTHAM, DISTRICT - KHAGARIA)
2. AARADHYA KUMARI DAUGHTER OF HEMLATA KUMARI (MINOR UNDER GUARDIANSHIP), VILLAGE - CHAUKI, P.S. - SAHEBPUR KAMAL, DISTRICT - KHAGARIA

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar
For the Respondent/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

3 07-08-2024

I.A. No. 01 of 2024

The interlocutory application has been filed for condonation of delay in filing revision application, which is barred by 79 days.

2. Heard.

3. For the reasons stated in the application delay in filing the revision application is condoned.

4. Accordingly, Interlocutory Application stands allowed.

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Heard the admission.

2. This petition has been preferred by applicant being aggrieved with the impugned order dated 18.10.2023 passed by the Principal Judge Family Court Khagaria in Maintenance Case No. 01M/2020 whereby the learned Family Court allowed application of the O.P. submitted under section 125 of Cr.P.C. and directed the petitioner-applicant to pay a monthly maintenance of Rs. 8,000/- from the date of submission of application under Section 125 of Cr.P.C.

3. Learned counsel for the petitioner submits that while passing the Order the Family Court did not consider the fact that the O.P. -wife is residing separately with her own will therefore, she is not entitled to get any maintenance. He further argued that the Family Court also did not consider the fact that the parents of the petitioner are dependent upon him and the daughter of the petitioner is also residing with the petitioner. Therefore, the petitioner is unable to pay a monthly maintenance amount of Rs. 8,000/-. He further submits that since, the Family Court has directed the petitioner to pay the maintenance amount from



the date of submission of application but the petitioner is unable to pay the entire amount to the O.P.-wife from that date of submission of application.

4. Perusal of the impugned order shows that after the recording the evidence of O.P.-wife and her witnesses, the petitioner applicant did not appear before the Family Court therefore, the Family Court without recording the evidence of the petitioner husband passed the impugned order. Though in his pleading the petitioner pleaded that O.P.-wife is residing separately without any sufficient cause but for establishing this fact the petitioner has not adduced any evidence before the Family Court. Therefore, the finding of the Family Court which is based upon the evidences available on record that the O.P.-wife is residing separately with sufficient cause is in accordance with the evidence available on record and is neither perverse nor contrary to the record.

5. With regard to the quantum of maintenance amount is concern, undisputedly, the petitioner is a teacher appointed on contractual basis and getting a monthly salary of Rs. 40,000/-. Therefore, considering the above income of



the petitioner, the amount of Rs. 8,000/- which has been ordered by the Family Court appears to be just and proper.

6. Resultly, I did not find any merit in this revision petition. Thus, petition is liable to be and hereby dismissed as having no merit.

7. However, as prayed by the counsel for the petitioner, he is directed to pay entire arrears of maintenance amount in 10 equal monthly installment. On continuing default of two occasions entire amount will be recoverable at once.

(Arvind Singh Chandel , J)

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