

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1328 of 2019

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

PRAMOD KUMAR S/o Yamuna Singh Resident of Village- Barauli, P.S.-
Narhat, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Archana Devi W/o- Pramod Kumar Resident of Village- Barauli, P.S.-
Narhat, District- Nalanda, at present they are resident of Village- Eknaar,
P.S.- Hisua, District- Nalanda.
3. Prabhat Kumar Son of Pramod Kumar Resident of Village- Barauli, P.S.-
Narhat, District- Nalanda at present they are resident of Village- Eknaar,
P.S.- Hisua, District- Nalanda.
4. Muskan Kumari Daughter of Pramod Kumar Resident of Village- Barauli,
P.S.- Narhat, District- Nalanda at present they are resident of Village-
Eknaar, P.S.- Hisua, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate
For the Respondent/s	:	Mr. Abhay Kumar Roy, APP
For the Opposite Party	:	Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 02-02-2024 The instant Revisions is directed against an order dated 17th September, 2019, passed in Misc. Case No. 79 of 2011, being a proceeding under Section 125 of the Cr.P.C. by the learned Principal Judge, Family Court, Nawada. By passing the impugned order, the learned trial Judge directed the petitioner to deposit one fourth of his salary for the maintenance of the opposite party no.2 and the daughter of the parties who is living with the opposite party no.2.



2. It is submitted by the learned Advocate for the petitioner/husband that the background of the case is not at all happy. It is the allegation of the petitioner that his wife, opposite party no.2 herein had an illicit relation with the brother of the petitioner. She started to reside with the said brother of the petitioner living the petitioner. Subsequently, dispute prompt up between them the opposite party filed a suit for divorce which was subsequently withdrawn. A case under Section 498A of the Indian Penal Code was also filed the said case is pending and subsequently, an application under Section 125 of the Cr.P.C. has been filed. It is also submitted by the learned Advocate for the petitioner that the wife of the brother of the petitioner also filed a matrimonial suit for dissolution of marriage alleging inter alia that after her husband has been residing with the opposite party deserting her. She also filed an application under Section 125 of the Cr.P.C.

3. Under such background, the learned Advocate for the petitioner invites me to decide the case.

4. It is frankly submitted by the learned Advocate for the petitioner that the trial court granted maintenance allowance to the tune of one fourth of the salary received by the petitioner. The said amount is being deducted from his salary



and deposited to the account of the opposite party no.2. It is further submitted by the learned Advocate for the petitioner that in the said wedlock between the petitioner and the opposite party, two children were born. The male child is residing under the care and guidance of the father i.e. petitioner. He is maintaining his son bearing the caused of education and other requirements. The petitioner has no grievance against the impugned judgment but he wants that the amount that has been deducted from his salary should be deposited in the account of the daughter of the parties because he apprehends that the daughter of the parties may be thrown away one day by the opposite party no.2. At this, this court has proposed that the order of maintenance passed by the trial court may be modified to the extent that the petitioner may be directed to pay one eighth of her salary to the opposite party no.2 and remaining one eighth of the salary to the opposite party no.3, daughter of the parties.

5. The learned Advocate for the opposite party no.2 has accepted such proposal.

6. In view of such circumstances, the instant Revision is disposed of modifying the direction passed by the trial court in the above mentioned maintenance case.



Henceforth, the petitioner is directed to deposit one eighth of his salary in the bank account of the opposite party no.2 and one eights of the salary to the bank account of the daughter of the parties.

7. It is submitted by the learned Advocate for the opposite party that huge amount of arrear maintenance is lying due and some direction should be passed in the instant matter. Being a court of Revision, I am not in a position to pass any order under Section 128 of the Cr.P.C. The opposite party no.2 is at liberty to initiate a proceeding in the trial court under Section 128 of the Cr.P.C. for execution of the order of arrear maintenance to be paid by the petitioner. In the event of filing of such application, the trial court shall consider the same in accordance with law.

(Bibek Chaudhuri, J)

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