

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1182 of 2018**

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

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Rohan Mahto son of Late Santokhi Mahto, resident of Village- Bela, P.S.
Belhar, District- Banka.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Jhalo Devi Mahto, wife of Rohan Mahto, resident of Village- Matihani, P.S.
Belhar, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Pandey

For the Respondent/s: Mr.Sri Satya Nand Shukla

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL

ORAL ORDER

4 09-07-2024

Heard on admission.

2. The present revision application has been preferred by the petitioner being aggrieved with the order dated 30.07.2018 passed by the learned Principal Judge, Family Court, Banka in Misc. (Maintenance) Case No. 12 of 2016, whereby the learned Family Court allowed the application filed under Section 127 of the Cr.P.C. by the opposite party No.2 and enhanced the maintenance amount from Rs. 3,000/- to Rs. 7,000/- per month.

3. Opposite Part No.2 is the legally wedded wife of the petitioner. Initially an application under Section 125 Cr.P.C. was filed by O.P. No.2 before the Judicial Magistrate-



1st Class, Banka being Misc. (Maintenance) Case No. 124 of 2011, which was decided on 22.09.2014. The petitioner herein was directed to pay monthly maintenance of Rs. 3,000/- to O.P. No.2- wife from the date of filing of the application. Thereafter, O.P. No.2-wife filed an application under Section 127 Cr.P.C. for enhancement of above maintenance amount, which has been allowed by the learned Principal Judge, Banka vide order dated 30.07.2018 and the monthly maintenance amount has been enhanced to Rs. 7,000/- from Rs. 3,000/-. Hence, this revision application has been preferred by the petitioner-husband.

4. Perusal of the record shows that in the proceeding under Section 125 Cr.P.C., the petitioner himself admitted the fact that he is getting monthly income between Rs. 34,000- Rs.55,000/- and also having un-partitioned land of 10-12 bighas. Looking to the above, the learned Family Court allowed the application and directed the petitioner to pay a monthly maintenance of Rs. 3,000/- to the O.P. No.2- wife.

5. Subsequently, O.P. No.2-wife filed an application under Section 127 of Cr.P.C. for enhancement of above maintenance amount on the ground of increased salary of



petitioner-husband and other grounds. Vide order dated 30.07.2018, learned Family Court enhanced the monthly maintenance amount from Rs. 3,000/- to Rs. 7,000/-.

5. Perusal of the order further shows that in the said proceeding, the petitioner himself has filed his salary slip and according to the salary slip, at that time, he was getting monthly salary of Rs.64,102/-. Considering the above increased salary of the petitioner, the learned Family Court rightly enhanced the amount of maintenance from Rs. 3,000/- to Rs. 7,000/-. The order passed by the learned Family Court is purely based upon the evidence available on record, which is not perverse nor contrary to the record, therefore, I do not find any illegality or perversity in the impugned order passed by the learned Family Court.

6. Accordingly, this criminal revision application is dismissed being devoid of merit at the admission stage itself.

7. At the time of argument, it is submitted by the learned counsel for the petitioner that the petitioner has been retired from his service on 01.07.2019, therefore, he is not in a position to pay the maintenance amount of Rs. 7,000/- as awarded by the learned Family Court to the respondent-wife.



8. Taking note of the aforesaid submission advanced by the learned counsel for the petitioner, it is advised to file an application under Section 127 of the Cr.P.C. for cancellation or modification of the order dated 30.07.2018 passed by the learned Family Court in accordance with the law pointing out the subsequent development of the case with respect to present financial condition of the petitioner.

9. With the aforesaid observation and direction, this revision application is dismissed.

(Arvind Singh Chandel , J)

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