

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.791 of 2019

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

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Rinku Devi W/O Santosh Prasad Verma @ Santosh Prasad, D/O Jaygovind Prasad Resident Of Mohalla- Bind (Near New Talab), P.O. And Post Chatra, District- Chatra. (Jharkhand). At Present At Village- Fatehpur, P.S.- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santosh Prasad Verma @ Santosh Prasad S/o Late Babulal Sao Resident of Mohalla- Bind (Near New Talab), P.O. and P.S.- Chatra, District- Chatra. (Jharkhand)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar Sinha, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP
For the O.P. No. 2	:	Mr. Birju Prasad, Advocate
		Mrs. Shweta Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 21-03-2025

The present Criminal Revision Petition has been preferred by the petitioner against the impugned order dated 28.03.2019, passed by learned Principal Judge, Family Court, Gaya in Miscellaneous Case No. 112 of 2016, whereby learned Family Court has enhanced the monthly maintenance of Rs. 500/- to the petitioner to Rs. 1400/- per month under Section 127 Cr.PC.

2. O.P. No. 2 herein, who is ex-husband of the petitioner, has filed one interlocutory application for challenging the present impugned order saying that the enhancement is



excessive and hence, the impugned order is liable to be set aside.

3. Here, at the outset, it would be pertinent to mention that I.A. No. 01 of 2025, filed by O.P. No. 2 herein, is not maintainable, because this is not a civil proceeding where counter claim may be made by O.P. No. 2. If O.P. No. 2 is aggrieved by the impugned order, he has liberty to file separate Criminal Revision petition.

4. Hence, I.A. No. 01 of 2025, filed by O.P. No. 2, is dismissed as not maintainable.

5. The factual background of the present revision petition is that the petitioner was married to O.P. No. 2 in the year, 1996 and she was blessed with two children out of the wedlock. But on account of marriage running into rough weather, the petitioner preferred one application under Section 125 Cr.PC for her maintenance as well as maintenance of her two minor children in the year, 2001, wherein learned Family Court had directed O.P. No.2 to pay maintenance to the petitioner-wife and her two minor children @ Rs. 500/- per month each. Subsequently, the maintenance amount was reduced for the two minor children @ Rs. 450/- per month each by this Court in Criminal Revision petition.



6. Subsequently, divorce proceeding was initiated by the O.P. No. 2 -husband, wherein divorce was decreed dissolving the marriage between the petitioner and O.P. No. 2 vide judgment dated 17.04.2004 passed in Matrimonial Title Suit No. 86 of 2000 by the Court of Additional District and Sessions Judge, Chatra, situated in the State of Jharkhand. However, no permanent alimony was granted by the District Court. Thereafter, divorce decree was challenged by the petitioner-wife in the High Court of Jharkhand, wherein vide judgment dated 05.12.2016, High Court of Jharkhand upheld the decree of divorce, however, granted permanent alimony of Rs. 7 lac to the wife payable by her ex-husband. However, by specific order, it was held by High Court of Jharkhand that monthly maintenance awarded by Family Court of Bihar payable by ex-husband to the petitioner/ex-wife will continue.

7. The O.P. No. 2-husband challenged the judgment of High Court of Jharkhand in the Hon'ble Apex Court in regard to the continuation of the monthly maintenance to the ex-wife even after payment of permanent alimony of Rs. 7 lac. However, Hon'ble Apex Court dismissed the SLP declining to interfere in the judgment of Jharkhand High Court and hence, the petitioner was getting monthly maintenance of Rs. 500/- per month from



her husband even after decree of divorce and despite getting permanent alimony of Rs. 7 lac in the year, 2016.

8. Subsequently, in the same year of 2016, the petitioner-wife filed Miscellaneous Case No. 112 of 2016 in the Family Court, Gaya under Section 127 Cr.PC for enhancement of her monthly maintenance. During proceeding under Section 127 Cr.PC in Miscellaneous Case No. 112 of 2016, evidence was adduced by both the parties and thereafter, monthly maintenance payable to the children were stopped, because they had become major. But monthly maintenance of Rs. 500/- payable by O.P. No. 2 to the petitioner was enhanced from Rs. 500/- to Rs. 1400/- per month.

9. Being aggrieved by the aforesaid order of the Family Court in Miscellaneous Case No. 112 of 2016, the present Criminal Revision petition has been preferred by the petitioner seeking further enhancement.

10. I heard learned counsel for the petitioner, learned APP for the State and learned counsel for the O.P. No. 2.

11. Learned counsel for the petitioner submits that enhancement of maintenance from Rs. 500/- to Rs. 1400/- per month is inadequate and insufficient for meeting her expenses in this day of inflation. It is also on record that O.P. No. 2 – ex-



husband of the petitioner is a Goldsmith, running a jewelry shop.

12. However, learned APP for the State and learned counsel for the O.P. No. 2 vehemently opposes the prayer of the petitioner submitting that prayer of the petitioner for enhancement is totally unjustified. In fact, she is not entitled to get any enhancement, because in the same year, prior to the impugned order, she has got Rs. 7 lac towards her permanent alimony as per the order of High Court of Jharkhand and it does not lie in the mouth of the petitioner that she is destitute and vagrant and unable to maintain herself. She has already got Rs. 7 lac from O.P. No.2 in the same year.

13. They further submit that subsequent to divorce between the petitioner and O.P. No. 2, O.P. No. 2 has entered into second marriage and second wife is still alive and he has got four children out of the new wedlock. As such, number of dependents upon O.P. No. 2 has risen and in fact, the maintenance should have been reduced rather than enhanced in view of the increase of the number of dependents upon O.P. No. 2, together with the fact that in the same year prior to the filing of this enhancement petition, she has got Rs. 7 lac from O.P. No.2.



14. I considered the submissions advanced by the parties and perused the materials on record.

15. I find that there is no cogent evidence on record to show how much income of O.P. No. 2 has increased, except to show that O.P. No.2 is a Goldsmith and running a jewelry shop. But this fact was on record even at the time of passing the previous maintenance order. On the other hand, I find that subsequent to the divorce, O.P. No. 2 has second wife along with four additional children.

16. Hence, I find no merit in this case. Accordingly, the present petition is dismissed.

(Jitendra Kumar, J.)

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AFR/NAFR	NAFR
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