

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.993 of 2019

Arising Out of PS. Case No.-1435 Year-2016 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. Amit Kumar Son of - Ramanand Singh, Resident of Mohalla- Sahbajpur Purana Zero Mile P.S.- Ahiyapur Dist- Muzaffarpur At Present reside mohalla- House No. 563 MIG, Road No. 1 Hariom Nagar P.S.- Adityapur District- Saraikela Kharsawan.
 2. Ramanand Singh Son of- Late Brahmdeo Singh, Resident of MOhalla- Sahbajpur Purana Zero Mile P.S.- Ahiyapur Dist- Muzaffarpur At Present reside mohalla- House No. 563 MIG, Road No. 1 Hariom Nagar P.S.- Adityapur District- Saraikela Kharsawan.
 3. Veena Singh Wife of - Ramanand Singh, Resident of MOhalla- Sahbajpur Purana Zero Mile P.S.- Ahiyapur Dist- Muzaffarpur At Present reside mohalla- House No. 563 MIG, Road No. 1 Hariom Nagar P.S.- Adityapur District- Saraikela Kharsawan.
 4. Chandraditya Kumar Son of - Braj Kishore Singh, Resident of Village- Dronpur, Jhapahan P.S.- Ahiyapur, Dist- Muzaffarpur.
 5. Vandana Kumari Wife of Chandraditya Kumar, Resident of Village- Dronpur, Jhapahan P.S.- Ahiyapur, Dist- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kumari Jaya @ Nikki wife of - Amit Kumar, Daughter of - Sunil Kumar, Resident of Village- Nawalpur Mishraulia, P.S.- Sakra Dist- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Adv.

For the Respondent/s : Mr. Jitendra Kumar Singh, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 11-04-2023

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The present Cr. Revision Application has been filed
against the order dated 25.06.2019 passed by Additional District
& Sessions Judge XIV, Muzaffarpur in Cr. Appeal No. 59 of 2018
arising out of Case No.C-1435 of 2016 under Protection of



Women from Domestic Violence Act, 2015 as well as against the order dated 22.08.2017 passed by S.D.J.M., Muzaffarpur (East) in C-1435 of 2016 under Domestic Violence Act, by which, the court of S.D.J.M. has directed the petitioner no.1 to secure the proper and safe accommodation for opposite party No.2 in the house or in separate house, if opposite party No.2 wants so they shall keep her with full respect and dignity and shall pay Rs.20,000/- (Twenty Thousands Rupees) per month. It was also ordered that the payment of money shall be made on 15th day of every month by depositing it in bank account of opposite party No.2.

Learned counsel for the petitioner submits that both the orders are not sustainable due to three reasons. The first reason on which the counsel put emphasis that the order for residence cannot be made as an interim order and, as such, the order passed by original court and the order affirming the order passed by original court by the trial court are fit to be set-aside. In addition to that counsel for the petitioner has raised two more points, the first point he has raised is that the money fixed at Rs.20,000/- per month is without any reason and without any basis. It should be fixed as per the capacity of petitioner otherwise the order could not be complied. Learned counsel further submits that it is a case of Domestic Violence Act, therefore, it is necessary for the court to first held about the existence of domestic violence and then



provide relief under the said Act.

Learned counsel for the petitioner also submits that Section 468 of Cr.P.C. i.e. the limitation in taking cognizance shall applicable in the present case.

Learned counsel for the State submits that both the orders have been passed completely in accordance with law. It has also been submitted that special power has been vested under Section 23 of the Act in the court to grant interim and ex-parte orders and in this view of the matter, the present order which is basically an order passed as an interim order and ex-parte order is absolutely a valid order and need no interference.

From the perusal of the documents and hearing the parties, it is admitted that a women who is subject to domestic violence has right to file an application for interim as well as residential relief. The said order to secure proper and safe accommodation for opposite party No.2 in the house or in separate house as well as to pay Rs.20,000/- for her maintenance is basically a protection order under Section 18 of Domestic Violence Act which has to be passed on being prima-facie satisfied that domestic violence has taken place or is likely to be taken place then pass a protection order in favour of aggrieved person and prohibit the respondents. Similarly order for payment of money is the subject matter of Section 18(e) of Domestic



Violence Act.

This Court is of the view that Section 468 of Cr.P.C. has applicability in the matter of Domestic Violence only at the stage of applicability of Section 32 of Domestic Violence Act where question of taking cognizance is involved. So far as applicability of Section 468 of Cr.P.C. is concerned, this section shall not apply in Domestic Violence Act prior to Section 32 of Domestic Violence Act.

Hence, in this view of the matter the said order is basically an interim order and fit to be sustained, therefore, the present Cr. Revision Application is hereby **dismissed** and the order dated 25.06.2019 passed by Additional District & Sessions Judge XIV, Muzaffarpur in Cr. Appeal No. 59 of 2018 arising out of Case No.C-1435 of 2016 under Protection of Women from Domestic Violence Act, 2015 as well as against the order dated 22.08.2017 passed by S.D.J.M., Muzaffarpur (East) in C-1435 of 2016 under Domestic Violence Act are hereby **sustained**.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

