

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional Sessions Judge,
Aizawl Judicial District, Aizawl.

Criminal Revision No. 14 of 2015

Shri Lalhmingmawia
S/o Rohmingliana,
R/o Kepran,
P/a D.I.E.T., Serchhip.Petitioner

-Versus-

Smt. Lalthlamuani
D/o Isaka (L),
R/o Zohmun, Kawnzar, Mizoram.Opposite Party

APPEARANCE

For the petitioner : Shri H. Lalrinthanga, Advocate.

For the O.P. : Ms. Lalhriatpuii, Advocate.

Order delivered on : 20.7.2015

ORDER

The revision petition is filed for setting aside the impugned Judgment & Order dated 20.3.2014 passed by the learned Judicial Magistrate First Class, Aizawl in CrI. Complaint Case No. 206 of 2012. In the Order, the petitioner was directed to pay a sum of Rs. 3,000/- per month for the maintenance of minor Laltlanhlua Ralte.

2. The revision petitioner's case is that the learned Trial Court exorbitantly allowed the maintenance allowance in favour of his son minor Laltlanhlua Ralte without taking into consideration his means and his paying capacity.

3. I heard the learned Counsel Shri H. Lalrinthanga appearing for the revision petitioner and the learned Legal Aid Counsel Ms. Lalhriatpuui. The Lower Court Record requisitioned for the purpose of disposal of the revision petition is made available to this court.

4. The learned Counsel Shri H. Lalrinthanga submitted that the review petitioner was drawing a fixed salary pay of Rs. 25,000/- per month as Teacher under S.S.A. on contract basis. But, the petitioner engaged a substitute Teacher on his behalf at Kepran Middle School, Kepran and paid him Rs. 9,000/- as he was having training at D.I.E.T. Serchhip, during 2014-2015 sessions vide Office Order No. A.33023/1/06-SPD (SSA) dated 1.8.2014 issued by the Addl. State Project Director, Mizoram SSA Mission. He further submitted that he spent house rent at Serchhip an amount of Rs. 1,000/- for his accommodation and Rs. 4,000/- for livelihood. He also submitted that he used to pay Rs. 500/- for his house rent at Kepran where was posted as Teacher. Last but not least, the petitioner had to maintain his old aged father who could not maintain himself including his old aged mother who has been suffering from Alzheimer disease requiring constant attention by two male attendants at East Phaileng. According to learned Counsel, the learned Trial court did not take into consideration the means and the paying capacity of the revision petitioner at the time of passing the impugned order.

5. On the other hand, the learned Legal Aid Counsel Ms. Lalhriatpuui submitted that the maintenance allowance passed by the learned Trial did not call interference of the revision Court inasmuch minor Laltlanhlua Ralte is unable to maintain himself, he being four years old child. According to the learned Counsel, the maintenance allowance passed in favour of Laltlanhlua Ralte is not exorbitant.

6. I have considered both the submission of the rival parties. I have also carefully perused the records of the learned Trial Court. I find that the learned Trial Court exorbitantly allowed the maintenance allowance of Rs 3,000/- in favour of minor Laltlanhlua Ralte without taking into consideration the means and the paying capacity of the revision petitioner.

7. In view of the discussion stated above, I find that the order passed by the learned Trial Court requires interference. Hence, the impugned order is modified by allowing the maintenance allowance of minor Laltlanhhua to Rs. 1,500/- per month.

8. However, the respondent is advised to approach the Trial Court for higher quantum of maintenance allowance of her son when the petitioner joins as Teacher in Kepran Middle school.

9. Regarding the mode of payment, the revision petitioner shall deposit the amount of maintenance allowance amount in the account of Smt. Lalthlamuani, Account No. 20127292911 at SBI, Bawngkawn, not later than 10th of every month.

10. The petitioner shall also pay the maintenance allowance of his son to the respondent retrospectively w.e.f. the month of April, 2014 if earlier not paid.

11. The criminal revision is partly allowed.

12. No order as to cost.

Order is pronounced in open Court on this 20th day of July, 2015 under my hand and seal of this Court.

Sd/- VANLALENMAWIA
Addl. Sessions Judge,
Aizawl Judicial District,
Aizawl, Mizoram

Memo No. _____/AD&SJ(A)/2015 : Dated Aizawl, the 20th July, 2015

Copy to: -

1. Shri Lalhmingmawia through Counsel Shri H. Lalrinthanga, Advocate.
2. Smt. Lalthlamuani through Counsel Ms. Lalhriatpuii, Advocate.
3. District Judge, Aizawl Judicial District, Aizawl.
4. District Magistrate, Aizawl District, Aizawl.
5. Registration Section, District Court, Aizawl.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

P E S H K A R