

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.610 of 2011

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Md. Javed Hussain, son of Md. Akhtar Hussain, resident of village-
Maheshpur Miya Toli, Police Station-Piri Bazar, District-Lakhisarai.

.... Petitioner/s

Versus

1. The State Of Bihar &
2. Bibi Arjun Khatun, wife of Md. Javed Hussain, resident of village-
Maheshpur, P.S. Piri Bazar, District-Lakhisarai at present Moh.
Murgiyachak, P.S. Kotwali, District-Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate.

For the Respondent/s : Mr. Asha Devi, APP

For the Informant : Mr. Manoj Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
C.A.V. ORDER

10 24-12-2013

Petitioner/husband has challenged the order dated

22.01.2011 passed by Principal Judge, Family Court, Munger in
connection with Maintenance Case No.61M of 2009 directing the
petitioner to pay Rs.3,000/- per month to the Opposite Party No.2,
Bibi Arjun Khatoon.

2. Because of the fact that during course of stay at her
Sasural application/wife was subjected to cruelty and further the
family members of the petitioner/husband bent upon to do away
with her life, she escaped therefrom in pregnant condition to save
her life. Subsequently, she begotten a female child at her *Maika*.
Because of the fact that she has got no source of income and is
dependent upon her parents and as father is suffering from cancer
leaving no future scope therefore, she sought for maintenance of
Rs.3,000/- at the end of her husband and for that she has disclosed
the source of means of her husband having tailoring shop as well

as having Rs.20,000/- per month earning therefrom.

3. The petitioner/husband appeared and filed his show cause wherein he has denied all the allegations whatsoever been alleged by the applicant/wife. It has also been submitted that the applicant herself happens to be at fault because of the fact that just after her marriage, she began to treat family members with torturous event in spite of fact that she was given all sorts of comforts including cordial, congenial, hygienic, social healthy atmosphere. It has further been submitted that it is wrong to say that he has got tailoring shop rather he happens to be assistant therein. He has further disclosed that his father earns Rs.3,000/- per month and the Opposite Party along with his family members are dependent upon the earning of his father.

4. During course of trial, both the parties have adduced two witnesses respectively and after taking into account the evidences of the respective witnesses adduced on behalf of both the parties, learned Principal Judge allowed the prayer.

5. As the learned counsel for the petitioner by his absence left the proceeding uncared and on account thereof the argument on behalf of Opposite Party No.2 as well as learned Additional P.P. has been heard. Because of the fact that the scope of revisional power is vested in the court itself to correct the illegality persisting over the judgment, as such absence of petitioner did not find adverse to exercising of such inherent

power vested to revisional court in terms of Section 19(4) of the Family Court's Act.

6. After going through the order impugned, it is evident that the judgment impugned suffers from inherent defect on account of lapses on the part of the learned Trial Court while passing the operative portion of the order whereunder the learned Trial Court had omitted to direct from which date the order impugned would be operative as well as effective. The aforesaid requirement is the mandate of law which could be searched out under Section 125(2) of the Cr.P.C. For better appreciation Section 125(2) of the Cr.P.C. is incorporated below:-

“Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance.”

7. Accordingly, the order impugned is set aside. Petition is allowed. The matter is remitted back to the learned Lower Court to pass fresh judgment after hearing both the parties in accordance with law.

(Aditya Kumar Trivedi, J)

Patna High Court,
Dated 24th December 2013
Brajesh Kumar, AFR.