

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.528 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- BHOJPUR

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1. Amit Kumar Pandey Son of Late Anil Pandey, Resident of Village - Daud Nagar (Pandey Tola), Police Station - Daud Nagar, District - Aurangabad.

.... Petitioner

Versus

1. Archana Pandey W/o Sri Amit Kumar Pandey and D/o Sri Kameshwar Pandey Resident of C/o Raj Keshwar Singh (Hari Jee Ka Hata) Ara, P.S. - Ara Nawada, District - Bhojpur.

.... Respondent

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Appearance :

For the Petitioner : Mr. Uday Narayan Singh

For the Respondent : Mr. Ranjeet Tiwary

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 22-06-2017

Heard learned Counsel for the petitioner and learned Additional Public Prosecutor representing the State.

2. This revision application has been filed against the judgment and order, dated 22.05.2015, passed, by learned Principal Judge, Family Court, Bhojpur, at Ara, in Misc. Case No. 130 of 2010, in exercise of power under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "Code").



3. The petitioner is the husband of the Opposite Party, which fact is not in dispute. The Opposite Party filed an application, under Section 125 of the Code, seeking maintenance on the ground that the petitioner refused to maintain her, though he was having sufficient means of income.

4. The learned Court below, upon consideration of evidence on record, has hold the Opposite Party entitled to maintenance @ Rs. 8,000/- per month from the date of the impugned order, dated 22.05.2015.

5. Assailing the impugned order, learned Counsel for the petitioner has submitted that the petitioner is ready to keep the Opposite Party with full dignity and he had expressed his intention to this effect at every point of time. It has also been submitted that the petitioner has filed an application for restoration of conjugal rights, which is still pending before the Court of learned Principal Judge, Family Court, Bhojpur, at Ara. It is his contention that since the petitioner is ready to keep the Opposite Party and live with her peacefully, no maintenance, under Section 125 of the Code, is admissible to the Opposite Party. He has also submitted that the Opposite Party has refused to live with the petitioner without any sufficient reason and on that ground also, the Opposite Party is not entitled for any maintenance.



6. I have perused the impugned order. The learned Court below, before allowing the maintenance at the rate as indicated above, has considered the evidence on record to the effect that the Opposite Party was being tortured by the petitioner and his family members because of which she was left with no other option, but to withdraw herself from the company of the petitioner.

7. Pendency of an application, under Section 9 of the Hindu Marriage Act, cannot be a ground for refusal of maintenance under Section 125 of the Code. No point has been raised that the rate of maintenance allowance, as granted by the learned Court below, is excessive.

8. Learned Counsel for the petitioner has also submitted that in the facts and circumstances of the case, the party should be allowed to go for one-time settlement.

9. I do not find it to be an appropriate stage in the facts and circumstances to pass any order for one-time settlement.

10. The petitioner shall be at liberty to raise such plea in any other proceeding, including any proceeding which is pending before the learned Court below.

11. This application is accordingly dismissed.

12. By virtue of dismissal of this criminal revision application, the interim order, dated 17.09.2015, is



also vacated.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2017
Transmission Date	28.06.2017

