

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.478 of 2018

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

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1. Nand Kishore Sah, Son of Bhai Lall Sah, Resident of Village- Madhepura, Post Office- Amba, Police Station- Hathauri, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rupkala Devi, Wife of Nand Kishore Sah, Resident of Village- Madhepura, Police Station- Hathauri, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mazharul Hassan
For the Respondent/s : Smt. Sharda Kumari

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 13-09-2018

The present revision application has been filed against the order dated 08.02.2018 passed by the learned Principal Judge, Family Court, Muzaffarpur, in Maintenance Case No. 171/2002, by which, he has directed the petitioner to pay the maintenance amount of Rs. 1,500/- to opposite party no. 2.

It appears that a maintenance case was filed by opposite party no. 2 in the Court below stating that she was married with petitioner thirty five years ago and out of the wedlock, she has been blessed with two daughters and one of the daughters, namely, Nirmala was married in the year 2002 and she is living with her husband and another daughter, namely, Khusbu is a student of



graduation. Further case of opposite party no. 2 is that the petitioner is Government Amin in Ramgadhwa Block in East Champaran and with the help of his brother in law, petitioner solemnized second marriage without seeking any divorce and when opposite party no. 2 made protest, the petitioner started misbehaving and stopped to provide maintenance to her and her daughter. Second wife of the petitioner also misbehaves with her and due to that the life of opposite party no. 2 became hell and due to non maintenance by the petitioner, the education of her daughter has interrupted and for that she filed the maintenance case for grant of maintenance of Rs. 5,000/- for herself and her daughter besides Rs. 15,00,000/- (Rs. Fifteen Lakhs) for marriage of her daughter.

The petitioner in the said maintenance case appeared on notice and admitted that the opposite party no. 2 is the legally wedded wife of the petitioner and also accepted that he has two daughters from opposite party no. 2 and he claimed that he solemnized the marriage of one daughter, namely, Nirmala as per his capacity. He also claimed that he takes full care of his second daughter, Khusbu and gives money for her education and the allegation of opposite party no. 2 that petitioner does not give any money is false and concocted. It has also been submitted by the petitioner that he has solemnized the second marriage after taking consent from the opposite party no. 2



and he gives full honour and regard to opposite party no. 2 and the allegation of ill treatment is false. It has further been submitted that petitioner is an agriculturist and he has no means to give the maintenance amount and he spends his entire income on his family.

It appears that learned Principal Judge, Family Court has examined three witnesses on behalf of opposite party no. 2 one Rupkala Devi, the opposite party no. 2 herself as A.W. 1 and another is Khusbhu as A.W.2, who is the daughter of opposite party no. 2 and one, Yugal Kishore Sharan as A.W. 3.

A.W. 1 Rupkala Devi fully supports her case for maintenance and stated that since the petitioner solemnized the second marriage, he started misbehaving with her and stopped providing maintenance to her and her daughter and due to which, they are leading a miserable life and the education of her daughter Khusbhu is interrupted and the second wife of the petitioner also started misbehaving with her. In cross examination, this witness has stated that there is five bighas of land and her husband looks after the agriculture. Her evidence further shows that her husband is a retired employee and after retirement, the petitioner is cultivating the land in the village. This witness has admitted that her daughter Khusbu does some tuition work for the survival.

A.W. 2 Khusbu has also supported the maintenance



case and has stated that the petitioner stopped giving money to her mother and education is interrupted and it has become very difficult for them to survive and whatever money is asked from petitioner, he flatly refused to pay the same. In her cross-examination, she has stated that her father (petitioner) was Government Amin in Gandak project and now he is retired. She stated that petitioner is not taking care her and her mother for last 4 -5 years.

A.W.3 Yugal Kishore Sharan has also supported the maintenance case filed by opposite party no. 2 and has stated that after second marriage, the petitioner Nand Kishore Sah stopped providing any maintenance to applicant (opposite party no. 2) and to her daughter and second wife also started misbehaving with her and the petitioner refused to maintain the opposite party no. 2 and her daughter and the daughter of opposite party no. 2 does some tuition work but that income is not enough for survival of both.

On the other hand, the petitioner has examined five witnesses, witness no. 1 is the petitioner himself and he has admitted the factum of marriage with opposite party no. 2 and has two daughters from opposite party no. 2. He also admitted that he is a Government Amin and he has stated that he has given money to her daughter for her education and solemnize the marriage of daughter Nirmala in the year 2000. He has also stated that his only source of



income is from agricultural land and he spends all his income in the maintenance of his second wife and children. He also admitted that his source of income is agricultural land.

Evidence of other witnesses examined on behalf of petitioner also shows that opposite party no. 2 is the wife of petitioner and from opposite party no. 2, he has two daughters. Their evidence also show that petitioner keep half of the agricultural products and gives half of the same to opposite party no. 2 and whatever he earns, he spends on his second wife and on children .

From the evidence available on record, it appears that opposite party no. 2 is the legally wedded wife of the petitioner and she has two daughters and one of them is already married and another is studying in graduation and she has no means to maintain herself and her daughter and petitioner is not maintaining her and her daughter. The evidence of petitioner also shows that he is spending entire income on his second wife and on his children and he is not spending any amount on the maintenance of his first wife (opposite party no. 2) and the opposite party no. 2 has no source of income, though it is stated that Khusbu, the second daughter of opposite party no. 2 does some tuition work but the amount earned from the said job has not been disclosed and in such a situation, both of them are entitled for maintenance and the maintenance amount fixed by the



learned Principal Judge, Family Court Muzaffarpur, in Maintenance Case No. 171/2002 is just and proper.

So far quantum of maintenance is concerned, it has vehemently been argued that petitioner has only agricultural income and he has no other income as such quantum of maintenance is excessive. However, from perusal of the order, it appears that the petitioner was directed to give Rs. 15,00/- as maintenance to opposite party no. 2 from the date of filing of the case, the quantum of maintenance of Rs. 15,00/- does not require any interference as the wife is also entitle to live the life as per the status of her husband, however, the amount of maintenance of Rs. 15,00/- is directed to be paid from the date of order in place of filing of the case.

With the above observation, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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