

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.946 of 2015

In
Criminal Miscellaneous No.24958 of 2015

Arising Out of PS. Case No.- Year- Thana- District- Patna

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Ishwar Dayal Prasad son of Late Muneshwar Prasad resident of Village -
Gewal Bigha, P.S. - Rampur, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ekta Anand Verma @ Rina Verma D/o Sri Banwari Lal Resident of
Village/Mohalla - Chutakiya Bazaar, P.O. - Patna City, P.S. - Malsalami,
District - Patna.

... .. Respondent/s

with

Criminal Revision No. 642 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District- Patna

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Ekta Anand Verma @ Reena Verma W/o Shri Ishwar Dayal Prasad, D/o Late
Banbari Lal Resident of Mohalla Chutkia Bazar, P.S. Malsalami (Patna City),
District Patna.

... .. Petitioner/s

Versus

Ishwar Dayal Prasad S/o Late Muneshwar Prasad R/o Mohalla Gewalbigha
(Police line road), P.S. Rampur Nagar, District Gaya, Bihar.

... .. Respondent/s

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Appearance :

(In Criminal Revision No. 946 of 2015)

For the Petitioner :Mr. Ajay Kumar Thakur, Advocate.
Mr. Nilesh Kumar, Advocate
Ms. Babita Kumari, Advocate.

For the Respondent :Ms. Veena Kumari Jaiswal (App)

(In Criminal Revision No. 642 of 2015)

For the Petitioner :Ms. Smt. Sudha Ambastha, Advocate.

For the Respondent :Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 13-08-2018 Both the petitions have been heard together
and are being disposed of by this common order.

Cr. Rev. No. 946 of 2015 has been filed by the



husband of opposite party no. 2 seeking to challenge the final order passed by the learned Additional Principal Judge, Family Court, Patna in Maintenance Case No. 138(M) of 2002 whereby the petitioner has been directed to pay to the opposite party no. 2 an amount of Rs. 5500/- per month for her maintenance.

The other petition viz. Cr. Rev. No. 642 of 2015 has been preferred by the wife for enhancement of the aforesaid maintenance amount, as according to her, there has been a hike in the salary of her husband (petitioner in Cr. Rev. No. 946 of 2015).

The facts and status of the parties in Cr. Rev. No. 946 of 2015 is being referred to in this composite order.

The petitioner was married to opposite party no. 2 in the year 2000. After about six months of the matrimonial relationship between the spouses, the opposite party no. 2 was pressurized for bringing additional dowry and non-fulfillment of the same led to her physical and mental torture. Ultimately, the spouses started living separately. A case also was registered against the petitioner and others vide Rampur P.S. Case No. 59 of 2001 dated 07.05.2001 under Sections 498A, 376 and 34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.



A petition for maintenance was filed by opposite party no. 2. In response to the aforesaid petition, though initially the petitioner came up with the plea that the marriage was fixed by fraud and keeping the petitioner's family in dark but later agreed to reside with the opposite party no. 2 and perform the matrimonial obligation. However, such a proposal was not acceptable to opposite party no. 2 for her own reasons, especially the torture which was perpetrated upon her during the period when she stayed with the petitioner. During the proceedings under Section 125 of the Code of Criminal Procedure, two witnesses were examined on behalf of opposite party no. 2 : one being she herself and the other her brother. Both of them deposed before the learned Family Court that the opposite party no. 2 did not have any separate means of livelihood and was dependent only on the sustenance provided by the petitioner/husband.

The petitioner, on his part, examined five witnesses, all of whom accepted the factum of marriage. The only material which was sought to be introduced by the witnesses that the opposite party no. 2, without any rhyme or reason, refused to co-habit with the petitioner. In support of the aforesaid contention, learned counsel for the petitioner has stated that even today after lapse



of about 17 years, the petitioner is still ready to resume his matrimonial obligation provided the opposite party no. 2 is agreeable for the same. As has been stated earlier, the opposite party no. 2 is not interested in the aforesaid proposal.

From the order impugned, it appears that the court below took into account the salary slip of the petitioner (Ext. A) and (Ext. 1) and found that as a Postal Assistant, at the relevant time, the petitioner was getting a gross salary of Rs. 33,316/-. After the deductions, the money in hand of the petitioner came to around Rs. 23,496/-.

Thereafter, the court apportioned $\frac{1}{4}^{\text{th}}$ of the aforesaid take home money of the petitioner to the share of the opposite party no. 2 and directed the petitioner to pay an amount of Rs. 5500/- per month. The order further takes into account the other commitments of the petitioner.

No good ground has been made out by the learned counsel for the petitioner for any interference with the aforesaid assessment of the court below in fixing the quantum of maintenance.

Learned counsel appearing for the opposite party no. 2 however has submitted that now there has been a hike in the salary of the petitioner and therefore



there should be a corresponding increase.

From the perusal of the order impugned, it appears that court has taken into account all relevant factors in assessing the financial strength of the petitioner and has rightly allowed $\frac{1}{4}^{\text{th}}$ of the take-home income of the petitioner as the quantum of maintenance to be paid by him to the opposite party no. 2. If at all there has been any hike in the monthly income of the petitioner, necessary application could be filed by the opposite party no. 2 before the competent court.

However, at this stage, since no fault is found with the order impugned, this Court does not wish to interfere with the same.

As such, both the petitions are dismissed.

(Ashutosh Kumar, J)

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