

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.518 of 2018

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

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Sunil Kumar Jha son of Vishesh Nath Jha, resident of Village- Belasadi, P.S.-
Sri Nagar Hatt, District- Madhepura.

... .. Petitioner/s

Versus

1. State of Bihar
2. Smt. Punam Devi @ Karpuri Devi, daughter of Vishesh Nath Jha, resident of
Village- Dahariya, P.S.- Chhatapur, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar

For the Respondent/s : Mr.Sri Amit Kumar Rakesh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 02-12-2019

The present petition has been filed against the judgment and order dated 28.03.2018 passed by the learned Principal Judge, Family Court, Supaul in Maintenance Suit No. 30 of 2014, whereby and whereunder the maintenance petition of the opposite party no. 2 has been allowed and the petitioner has been directed to pay a sum of Rs. 2,000/- per month to the opposite party no. 2.

The brief facts of the case are that the marriage of the petitioner was solemnized with the opposite party no. 2 on 19.02.1988 as per Hindu rites and customs and thereafter “*Duragman*” was performed in the month of March, 1991.

It appears from the impugned order dated 28.03.2018 that



at the time of marriage and “*Duragman*” the parents of the opposite party no. 2 and her brother had given lot of gifts, cash and articles to the petitioner herein and his family members, still the petitioner and her family members started demanding dowry and torturing the opposite party no. 2 and on 09th of May, 2002 the petitioner is stated to have poured kerosene oil on the body of the opposite party no. 2 and put her body ablaze, however, the people from the neighbourhood assembled and on an alarm being raised they extinguished the fire and saved the opposite party no. 2, who was then treated by a private doctor. It is further apparent from the impugned judgment that the opposite party no. 2 was driven out of her matrimonial home on 10.04.2007, whereafter she is in a state of pecuniary and is living her life in a pitiable condition. It is further apparent from the impugned judgment dated 28.03.2018 that the petitioner herein had appeared in the said case bearing Matrimonial Suit No. 13 of 2014 and filed his written statement denying the allegations leveled by the opposite party no. 2 stating therein that he was kidnapped by the father, brother and other relatives of the opposite party no. 2 and forcibly married. However, subsequently mediation was held and the family members of the opposite party no. 2 had admitted their fault and the



marriage was treated to have not been accepted. It has further been stated by the petitioner that he has solemnized another marriage from which he is also having one child.

The learned counsel for the petitioner has submitted that the marriage of the opposite party no. 2 with the petitioner is itself doubtful and there is no legally valid marriage existing in between them, hence there is no question of payment of maintenance. It is further submitted that the maintenance case has been filed after lapse of 26 years of so called marriage but no explanation has been given regarding the delay.

I have heard the learned counsel for the parties and perused the materials on record as also the impugned order dated 28.03.2018. It is apparent from the impugned order dated 28.03.2018 that four witnesses were examined on behalf of the opposite party no. 2 whereas four witnesses were also examined on behalf of the petitioner herein. The learned trial court has in detail dealt with the deposition of the witnesses and thereafter has come to a finding that the marriage had taken place in between the petitioner and the opposite party no. 2, though it might be possible that the same had taken place on gun point after kidnapping the petitioner herein. In paragraph no. 53 of the impugned judgment dated 28.03.2018, it has been stated by



the learned court below that the petitioner herein has admitted in his show cause at paragraph no. 4 and paragraph no. 10 that marriage had taken place but on gun point after being kidnapped for which a Panchayati was also held, hence the learned trial court has come to a conclusion that the marriage had taken place in between the petitioner and the opposite party no. 2. In paragraph no. 34 of the impugned judgment, it has been observed that the petitioner herein has filed a declaratory suit in the Family Court, Katihar dated 16.07.2015 under Section 9 of the Code of Civil Procedure read with Section 34 of the Specific Relief Act. In paragraph no. 50 of the impugned judgment, it has been held that in case the husband has some cogent and strong evidence to disapprove the marriage, he can file appropriate suit in the Civil Court and the said point cannot be raised in a proceeding filed under Section 125 Cr.P.C. It has also been stated that the petitioner has already filed a declaratory suit, hence he is advised that the issue of invalidity of marriage should be raised therein and as far as the maintenance case is concerned, the same cannot be raised. Lastly, in paragraph no. 54 of the impugned judgment, it has been held that if the petitioner herein was sanguine about his grievances regarding marriage with the opposite party no. 2, he could have filed a



case for annulment of marriage within one year from the date of alleged marriage and in that case the matter would have been otherwise. However, the same having not been done and till date the marriage in between the petitioner and the opposite party no. 2 having not stood annulled, the marriage in between the petitioner and the opposite party no. 2 stands admitted. In such view of the matter, the learned Principal Judge, Family Court, Supaul by the impugned judgment dated 28.03.2018 has directed the petitioner herein to pay a meager sum of Rs. 2,000/- to the petitioner in lieu of maintenance amount per month from the date of passing of the said order.

Considering the well reasoned order by the learned court below as also the factum of marriage having taken place in between the petitioner and the opposite party no. 2 being not in dispute, inasmuch as the same has not been annulled till date, I do not find any infirmity in the impugned order dated 28.03.2018 so as to warrant any interference. Now, coming to the quantum of maintenance awarded by the learned court below, it would suffice to state that it is a well settled law that Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who left her matrimonial home so that some suitable arrangement can be



made by the Court and she can sustain herself as also her children, if there are any, and it is the obligation of the husband to ensure that his wife lives a life in a similar manner, as she would have lived in the house of her husband, hence it is the sacrosanct duty of the husband to render her financial support and he cannot take subterfuge to deprive her of the benefit of living with her with dignity. Thus, any plea by the husband that he does not possess any source of income, ipso facto does not absolve him of his moral duty to maintain his wife. This Court further finds that the learned Principal Judge, Family Court, Supaul has awarded a meager amount of maintenance of Rs. 2,000/- per month, vide the impugned judgment dated 28.03.2018, thus this Court is of the considered view that the maintenance amount so awarded by the learned court below is not excessive especially keeping in mind the spiraling inflation rate and high cost of living index, hence I do not find any merit in the present petition, accordingly the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

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