

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.377 of 2019**

Arising Out of PS. Case No.- Year-0 Thana- District-

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Devu Kumar Pandit @ Devu Pandit Son of Narayan Pandit @ Deep Narayan
Pandit, Resident of Village- chandajori, Ward No. 3, Bela Bagan, P.S. and
District- Deoghar (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kaushalya Devi, Wife of Devu Pandit @ Dev Kumar Pandit, D/O Shankar
Pandit, Resident of Village- Paharidih, P.S.- Chandan, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha
For the Respondent/s : Mr.Rina Sinha

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 03-04-2019

Heard parties.

2. This criminal revision petition has been filed for
setting aside the judgment and order dated 11.12.2018 passed by
Principal Judge, Family Court, Banka in Misc. (Maintenance)
Case No. 44 of 2016 (Tr. No. 68 of 2018) by which petitioner
has been directed to pay Rs. 1500/- per month as maintenance to
Opposite Party No. 2.



3. Wife-Opposite Party-2 filed maintenance case on 31.05.2016, alleging therein that she was ousted from her matrimonial home on 19.09.2014, after being abused and assaulted by the petitioner-husband and she had to take shelter in her parental home. Her family members went to her matrimonial home to pacify the matter but they were humiliated and petitioner also refused to keep wife-Opposite Party No. 2 with him and since then she is residing in her parental home. She has no source of income and is dependent upon her parents for her survival whereas petitioner has income of Rs. 8 Lacs per annum from different sources and as such, she is entitled for maintenance.

4. Notices were issued to petitioner by the Family Court and he appeared and filed his show cause in which he has denied allegation of torture and demand of dowry and has stated that Opposite Party No. 2 herself went to her parental home against his wishes and he made several efforts to bring her back to her matrimonial home which was refused by her. Petitioner has further submitted that he is daily wage earner and is a labourer. He has filed a suit for restitution of conjugal rites which was disposed of on 11.04.2017 on compromise.

5. Three witnesses were examined on behalf of wife-



Opposite Party No. 2. PW-1 is father of opposite party, PW-2 is opposite party herself and PW-3 is mother of opposite party.

6. Opposite Party No. 2 in her deposition has stated that marriage between the parties was solemnized on 16.06.2011 as per Hindu Rites and Customs and she was properly kept in her matrimonial home for one year and thereafter she was mentally tortured and her in-laws used to say that she is ugly and will not keep her and asked to bring Rs. 1.5 Lacs and on her inability to pay amount, she was abused and assaulted and even fooding and clothing were denied and thereafter she was ousted in 2014, and since then she is residing with her parents. She has no source of income whereas petitioner has sufficient income from different sources but still he is not maintaining her. She has accepted that the case filed by petitioner for restitution of conjugal rites was disposed of by order dated 11.04.2017 on compromise. The claim of Opposite Party No. 2 was supported by other witnesses who are mother and father of Opposite Party No. 2.

7. On behalf of husband-petitioner, three witnesses have been examined in which DW-1 is father of petitioner, DW-2 is petitioner himself and DW-3 is mother of petitioner. Judgment of Family Court dated 11.04.2017 has been filed by petitioner which has been marked as Exhibit-A.



8. Petitioner in his deposition has admitted that Opposite Party No. 2 is his legally wedded wife, however, no children has born from the said wedlock. It has been further stated that on 12.09.2013, the father of Opposite Party No. 2 came and took away his daughter and thereafter she never came back. His all efforts to bring her back failed and he had to file a case for restitution of conjugal rites which was disposed of on 11.04.2017 on compromise. However, Opposite Party No. 2 refused to go with him. He has stated that he has five brothers and all live jointly and he works as a labourer and except said earning he has no any other source of income. He has denied of abuse, assault or demand of dowry and his defence has been supported by the witnesses examined on his behalf. He has denied of performing second marriage.

9. After considering the rival contention of the parties and evidence on record the Principal Judge, Family Court, has found that from the evidence on record it does not appear that petitioner is willing to keep his wife with him and there is sufficient reason for Opposite Party No. 2 to not live with petitioner. The Family Court has further held that Opposite Party No. 2 has no source of income and petitioner is bound to maintain her and has directed to pay Rs. 1500/- per month as



maintenance amount which appears to be quite modest and reasonable.

10. After hearing the parties and perusing the order passed by the Principal Judge, Family Court, this Court does not find any illegality, irregularity or error in the order of the Family Court.

Accordingly, the present criminal revision petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.04.2019
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