

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1029 of 2016

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

Sanjay Kumar Sah @ Sanjay Sah son of Gopal Sah, resident of Mohalla-
Mundichak, Nakul Chand Lane, P.S.- Tilkanmanjhi, District- Bhagalpur.

... .. Petitioner/s

Versus

Rita Devi W/o- Sanjay Kumar Sah, Daughter of Sita Ram Sah, resident of
Mohalla- Deheria, Naya Tola, P.S.- Katihar Kotwali, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh, Advocate

For the Respondent/s : Mr. Bhola Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 19-12-2019

Heard learned counsel for the parties.

2. This criminal revision is directed against order dated 05.09.2016 passed by the learned Additional Principal Judge, Family Court, Katihar, in Maintenance Case No.125 of 2012, an application under Section 125 Cr.P.C., whereby the learned Principal Judge has allowed monthly maintenance of Rs.8,000/- (Eight thousand) in favour of Opposite Party No.2 against the petitioner. Besides the aforesaid, litigation cost of Rs.25,000/- has also been awarded.

3. The impugned order reveals that the learned Court- below came to the conclusion that Opposite Party No.2 had reasonable excuse to leave the matrimonial home as she was being tortured there for non-fulfillment of dowry demand and for not giving birth to a male child. Though two female tunes were born to



Opposite Party No.2 admittedly from the petitioner. The Court-below further found that Opposite Party No.2 is giving tuition to small children and earning Rs.150/- to Rs.200/- per month. Therefore, she is not having sufficient source of income to maintain herself. Whereas father of the petitioner has a jewellery in the Sonapatti market where the petitioner is also engaged and petitioner has income of about one lac. While coming to the conclusion aforesaid, the learned Court-below has relied on the evidence brought on the record.

4. Learned counsel for the petitioner submits that the petitioner has specifically stated during the proceeding that he is earning rupees 100 to 150/- per day by working in different jewellery and not in the shop of the father. The Court-below has not considered this aspect.

5. Learned counsel for Opposite Party submits that once the court exercising power under Section 125 Cr.P.C. came to the conclusion based on evidence it cannot be interfered in exercise of revisional jurisdiction only on the ground that on the available evidence two views are possible and the Court-below has not adopted the another possible view.

6. The record reveals that the petitioner had filed Matrimonial Case No.257 of 2012 against Opposite Party No.2 for a decree of dissolution of marriage in the Court of Principal Judge,



Family Court, Katihar.

7. By judgment dated 18.01.2019, a decree of divorce was passed in favour of the petitioner. On petition under Section 24 of the Hindu Marriage Act ad interim maintenance was allowed.

8. However, learned counsel for Opposite Party submits that the said amount was never paid to the Opposite Party No.2.

9. This Court is not inclined to go into disputed question of fact as exercise of jurisdiction under Section 397 Cr.P.C. is limited to the extent of satisfaction regarding correctness, legality or propriety of any finding, sentence or order passed by the Court-below. I do not find that the requirement of Section 125 Cr.P.C. has not been fulfilled to pass the order of maintenance nor I find that the amount awarded is not supported by material on the record. Therefore, in my view, this application has got no merit. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.12.2019
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