

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.204 of 2016

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

=====

Raj Kumar Giri Son of Arun Giri Resident of Village- Jhajhawan Pakari PS
Mohammadpur and District Gopalganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rima Devi Wife of Raj Kumar Giri , Daughter of Shankar Giri Resident of
Village- Jhajhawan Pakari PS Mohammadpur and District
Gopalganj.Presently residing of village- Jalalpur Mathiya Post- Bishenpura
Ps Sidhwaliya and District Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Anirudh Kumar Verma
For the Respondent/s : Mr.Panchanand Panditapp

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 09-07-2019 This revision application has been filed by the

petitioner- husband against the judgment dated 30.01.2016

passed by learned Principal Judge, Family Court, Gopalganj in

maintenance old case no. 4/12 C.I.S. Case No. 676/13, filed by

opposite party no. 2 – wife under Section 125 of the Cr.P.C.,

whereby and where under, learned Family Court directed the

petitioner to pay Rs. 5,000/- per month as maintenance.

Facts giving rise to the present case in short is that the

marriage of opposite party no. 2 was solemnized with the

petitioner on 21.06.2010 as per Hindu rites and customs and,

thereafter, she started living with the petitioner. Thereafter, the

petitioner developed illicit relationship with a girl, namely,



Kiran Devi and when opposite party no. 2 opposed the said act of petitioner, she was subjected to cruelty and was assaulted by the petitioner and ultimately, she was driven out of her matrimonial house and her belongings were also kept by the petitioner. Thereafter, opposite party no. 2 went to her maika and filed a criminal case against the petitioner for torture and demand of dowry. Further case is that in the meanwhile, petitioner solemnized marriage with the said Kiran Devi and living with her. It is alleged that petitioner is a driver by profession and earns Rs. 15,000/- each month and also possesses hundred bighas of agricultural land, from which also, he has annual income of Rs. 20 lacs.

In the said maintenance case, petitioner appeared and filed his show cause denying all the allegations levelled by the opposite party no. 2 as well as the claim of opposite party no. 2 that he earns Rs. 15,000/- per month and has 100 bighas of land, however, he admitted to have 3 bighas and 14 kathas of land in the name of his father, on which, he, his brother and two sisters and parents are dependent. Further case of petitioner – husband is that he works as daily wages labourer under Rashtriya Gramin Rojgar Yojna, in which, he earns Rs. 100/- per day and maintains his family. It is also alleged by the petitioner that the



opposite party no. 2 is having illicit relationship with a person of her Maika and due to which, she does not want to live with the petitioner.

In course of hearing, learned Principal Judge, Family Court, Gopalganj has got three witnesses examined on behalf of the opposite party no. 2 and four witnesses on behalf of petitioner – husband. On conclusion of the proceedings, vide impugned order, learned Principal Judge, Family Court allowed the maintenance case filed by the opposite party no. 2 finding that the marriage between the parties is admitted and it is also an admitted fact that opposite party no. 2 – wife is residing in her maika and there is nothing on record to show that opposite party no. 2 – wife does any job, whereas, the petitioner has himself admitted that he has three bighas and 14 kathas of land in the name of his father, on which, he, his brothers, two sisters and parents are dependent and in this view of the matter, 13 kathas of land comes in favour of petitioner – husband, however, opposite party no. 2 – wife has filed Khatihan of village pakri in support of her version that petitioner – husband has 100 bighas of land but learned Principal Judge, Family Court, Gopalganj has not relied on that as the aforesaid exhibit does not connect the name of Khatihani Raiyat with petitioner's



family. Petitioner has also come with a case that opposite party no. 2 had illicit relationship with a person of her maikie but no evidence was brought in support of this. Learned Principal Judge, Family Court considering the fact that opposite party no. 2 is the legally wedded wife of petitioner and petitioner has neglected her and not maintaining her and she has no source of income, whereas, petitioner has landed properties as well as the fact that he is earning as labourer also has passed the order directing the petitioner to pay Rs. 5,000/- to opposite party no. 2 towards her maintenance on 10th day of every succeeding month.

Being aggrieved and dissatisfied, the petitioner has preferred the present revision application on the ground that without ascertaining the real income of the petitioner, an amount of Rs. 5,000/- as maintenance has been fixed per month, which is very excessive. It has also been submitted that petitioner is still ready to keep the opposite party no. 2 but it is she, who does not want to live with the petitioner. It has also been submitted that during pendency of the present application, opposite party no. 2 has also remarried with another person and she is not entitled for any maintenance.

Learned counsel for opposite party no. 2 on the other



hand countered the submission of learned counsel for the petitioner and submitted that there is nothing on record to show that the petitioner has made any effort to keep the opposite party no. 2 with himself rather the materials collected during course of evidence disclosed that he had illicit relationship with one lady and due to which, opposite party no. 2 was subjected to cruelty and assault and ultimately driven out from her matrimonial house, for which, she has also filed a case under Section 498A of the Indian Penal Code against the petitioner. Furthermore, it is also the fact that petitioner has remarried with another lady, as such, opposite party no. 2 to has just and sufficient ground to live separately from the petitioner – husband. Lastly, it has been submitted that the learned Family Court, after considering all the facts and circumstances including the fact that the petitioner possess some land and petitioner is working as labourer, whereas, opposite party no. 2 has no source of income, has allowed the maintenance case filed by opposite party no. 2, directing the petitioner to pay Rs. 5,000/- to opposite party no. 2 towards her maintenance, which is just and proper and does not require any interference.

Heard the parties and perused the record, from which, it appears that there is no dispute with regard to factum of



marriage between the parties. It further appears that the applicant has come with a case that petitioner solemnized second marriage and ousted her from her matrimonial house and it shall be considered to be just ground for her refusal to live with the petitioner. It also appears that there is nothing available on record to show that opposite party no. 2 has any source of income on her own, whereas, the materials available on record, shows that petitioner has 3 bighas and 14 kathas of land and he is working as a labourer under Rashtriya Gramin Rojgar Yojna and it is well settled that it is the sacrosanct duty of a husband to maintain his wife even if he is not earning.

Considering the above facts and circumstances, I do not find any infirmity in the judgment dated 30.01.2016 passed by learned Principal Judge, Family Court, Gopalganj in maintenance case no. 4/12 C.I.S. Case No. 676/13, directing the petitioner to pay maintenance of Rs. 5,000/- to opposite party no. 2.

This application is, accordingly, dismissed.

(Vinod Kumar Sinha, J)

sunilkumar/-

U		T	
---	--	---	--

