

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.730 of 2016

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

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Sahjad Alam son of Ansarul Haque Resident of village- Pipra Wajid, Police Station- Dhaka, District-East Champaran

... .. Petitioner/s

Versus

Shamima Khatoon daughter of Md. Jokhu resident of Village - Yadopur Tetari, Police Station- Dhaka, District-East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 29-07-2019 In this case, it appears from perusal of the record that this application was earlier dismissed for non prosecution vide order dated 06.02.2019, which was subsequently restored vide order dated 17.04.2019 passed in Cr. Miscellaneous No. 22778 of 2019 with condition that petitioner will pay 50% of the amount of maintenance per month to opposite party till final order is passed in Criminal Revision No. 730 of 2016.

Learned counsel for the petitioner has submitted that he has instruction that the said 50% amount has not been paid but he assures that the same will be deposited.

This revision application has been filed against the order dated 25.04.2016 passed in Matrimonial (Maintenance) Case No. 36 of 2013 by learned Principal Judge, Family Court,



East Champaran, Motihari, wherein and whereunder, the learned Family Court, East Champaran, Motihari has directed the petitioner – husband to pay Rs. 4,000/- per month to opposite party for her maintenance, by 15th day of every succeeding month from the date of filing of the petition as well as litigation cost of Rs. 5,000/-.

Facts in short is that a maintenance case was filed by the opposite party on the ground that her marriage was solemnized with the petitioner according to Mulim rights and customs and after marriage, she was living in her sasural, where, she gave birth to three daughters and a son but she was being subjected to cruelty with respect to demand of Rs. 50,000/- cash and one Hero Honda motorcyle and as her parents were not in a position to fulfill the said demand, opposite party was ousted from her matrimonial house and further she has no source of income, whereas, the petitioner earns Rs. 50,000/- per month as he has two bighas of land and a shop of electronic spare parts at Sikkim and thus prayed for maintenance of Rs. 10,000/- per months.

It appears that the petitioner has appeared in the court of learned Principal Judge, Family Court, however, after some time, he left pairvi in this case and as such, he was not



allowed to file the written statement.

It further appears that on behalf of opposite party -wife, three witnesses have been examined and PW-1 is the applicant herself and she has stated that she was ousted from her matrimonial house on 08.02.2013 due to non fulfillment of illegal demand of petitioner – husband and she has no source of income and her evidence disclosed that petitioner – husband is a business man having a shop of electronic spare parts at Sikkim. Other two witnesses are the brother and father of the opposite party and they have also supported the of the applicant – opposite party and their evidence also disclosed that petitioner has monthly income of Rs. 50,000/-.

Learned Principal Judge, Family Court, East Champaran, Motihari considering the same came to a finding that opposite party is the legally wedded wife of the petitioner and she has three daughters and one son and she was ousted from her matrimonial house due to on fulfillment of illegal demand, as such, she has reason to live separately and further she has stated in her evidence that she has no source of income, whereas, petitioner – husband has two bighas of land and a shop of electronic spare parts and has monthly income of Rs. 50,000/-.



It further appears that as petitioner has been debarred from filing written statement and to got his witnesses examined or cross-examine the witnesses produced on behalf of opposite party – wife and the learned Family Court, after considering all the facts, allowed the maintenance application and directed the petitioner to pay Rs. 4,000/- per month to opposite party towards her maintenance as well as Rs. 5,000/- as litigation cost.

Being aggrieved by the same, the petitioner has preferred the present revision application on the ground that without assessing the actual income of the petitioner and other materials has passed the order in a very mechanical manner.

Nobody appears on behalf of the opposite party no. 2.

Having considered the submission of learned counsel for the petitioner as well as perused the material available on record, from which, it appears that case of opposite party no. 2 is that she has been ousted from her matrimonial house and she has no source of income to maintain herself, whereas, petitioner has two bighas of land and a shop of electronic spare parts at Sikkim and he has monthly income of Rs. 50,000/-. However, no document has been brought on record



with regard to such a submission and as discussed above, the petitioner has left pairvi in the aforesaid maintenance and he was debarred from filing any written statement. It further appears that no witness has been examined on behalf of the petitioner – husband and he has not cross -examined the witnesses adduced on behalf of opposite party and on conclusion of proceeding, the Family Court has passed the order directing the petitioner to pay Rs. 4,000/- to opposite party per month and a litigation cost of Rs. 5,000/- and in opinion of this court the same does not appear to be excessive.

In such view of the matter, I find no merit in this revision application and the same is, accordingly, dismissed.

(Vinod Kumar Sinha, J)

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