

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.7 of 2018

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

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Bijalee Sharma @ Vijendra Sharma son of Debo Sharma Resident of Village -
Murho, Yadav Tola, O.P. - Bharrahi, Police Station District - Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Neetu Devi Wife of Bijalee Sharma, D/o - Chandradev Sharma
3. Suraj Kumar under the guardianship of Neetu Devi W/o Bijalee Sharma
4. Guriya Kumari under the guardianship of Neetu Devi W/o Bijalee Sharma All
residents of Village - Sukhasan Chakla, Police Station District - Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raja Surendra Mohan, Adv
For the O.P. No. 2	:	Mr. Gopal Kumar Jha, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 15-01-2019

Heard parties.

2. This criminal revision petition has been filed against the order dated 11.07.2017 passed by learned Principal Judge Family Court in Maintenance Case Number 55 of 2014 filed by Opposite Party Number-2 Neetu Devi and Opposite Party Nos. 3 and 4 under section 125 of Cr.P.C for paying maintenance to opposite parties with effect from the date of filing of maintenance case i.e. 03.05.2014.

3. It has been submitted in the petition filed by Opposite Party Number-2 that the marriage between the petitioner and Opposite Party Number-2 was solemnized in the



year 2007 and after marriage opposite Party number 2 started living with the petitioner in her matrimonial home and out of said wedlock one son and one daughter were born which are Opposite Party Nos. 3 and 4 in this petition.

4. At the time of marriage cash, gifts and presents were given to the petitioner. It has been further submitted in the petition that after marriage Opposite Party No. 2 was subjected to torture for non fulfillment of demand of dowry. Opposite Party No. 2 was subjected to cruelty and torture as a result of which it became impossible for her to stay in her matrimonial home and thereafter she started residing in her parental home. Panchayati was held and petitioner undertook that he will keep Opposite Party No. 2 in her matrimonial home with full dignity and honour. Opposite Party No. 2 came to reside in her matrimonial home but soon thereafter she was again tortured and assaulted and again she left her matrimonial home and started living in her parental home with her two minor children and petitioner refused to provide any maintenance to Opposite Party No. 2 or her minor children. As Opposite Party No. 2 has no source of income to maintain her and her minor children and petitioner has sufficient immovable property and also from his avocation earns Rs. 15,000/- to 20000/- per month and as such



present maintenance case has been filed for grant of maintenance to Opposite Party No. 2 and their minor children Opposite Party Nos. 3 and 4, by the petitioner.

5. In support of her case for maintenance Opposite Party No. 2 has examined herself as Witness No. 1, her mother as Witness Number No. 2 and her father as Witness Number No. 3, who have supported the case of Opposite Party No. 2. The maintenance case of Opposite Party No. 2 was contested by her husband who has stated that there is no reason or valid cause for Opposite Party No. 2 to live separately in her parental home and he was always willing and ready to keep her in her matrimonial home with full dignity and honour. He is himself a daily wage earner and anyhow manages his two time meals. She is living in her parental home for last 4 years without any valid cause. He has denied of committing any torture. Petitioner has examined himself as witness and two more witnesses have been examined on his behalf.

6. The Family Court after hearing the parties and considering the evidence adduced on behalf of both the parties, has held that there are sufficient reasons for wife to live separately from her husband and earlier also Opposite Party No. 2 had instituted a case against petitioner-husband under Section



498A of I.P.C., in which compromise was made, according to which wife-Opposite Party No. 2 started living with husband but soon thereafter she was again abused and assaulted and also threatened to be killed and thereafter ousted from her matrimonial home and she has bonafide reasons and sufficient cause for not living with her husband. The Family Court after due consideration has held that Wife-Opposite Party No. 2 has no sufficient means to maintain herself and she and her minor children are entitled for maintenance from husband-petitioner and husband-petitioner has obligation to maintain his wife and minor children and has got sufficient earnings to pay maintenance to his wife and minor children, and accordingly granted Rs 3000 per month as maintenance to wife and Rs 500 each to the minor children.

7. After hearing the parties and going through the order passed by the Family Court, this Court does not find any error or illegality in the order passed by the Family Court as such this Court is not inclined to interfere in the order passed by Family Court. However, date of payment of maintenance is modified as date of order i.e. 11-7-2017 passed by the Family Court. The order passed by the family court is upheld with modification to the extent that order for grant of maintenance



will be effective from the date of order passed by Family Court
i.e. 11.07.2017 and not from the date of application that is
03.05.2014, as ordered by the Family Court.

8. Subject to the aforesaid modification, the criminal
revision petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31.01.2019
Transmission Date	31.01.2019

