

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.686 of 2016

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

PAWAN LAL TATMA@ PAWAN TATMA, Son of late Dukhan Tatma
Resident of Village- Belwa Dadhala tola, P.S. Araria, District Araria.

... .. Petitioner

Versus

1. The State Of Bihar
2. Smt. Lalita Devi W/o Pawan lal Tatma, D/o Shohan Tatma resident of Village- Belwa, Baghela tola, PS Araria.
3. Durgi Kumar S/o Pawan Lal Tatma
4. Purnima Kumari D/o Pawan lal Tatma
5. Priya Kumari D/o Pawan lal Tatma All daughters are Minor, represented through her mother the O.P. No. 2 as Natural Guardian and next friend mother resident of Village- Belwa Baghela tola, PS Araria, district Araria.

... .. Respondents

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. Rajkishore Singh

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 25-07-2019 None appears on behalf of the petitioner. Learned counsel for the opposite parties is present.

From perusal of the record it appears that on 22.7.2019 none had appeared on behalf of the petitioner, as such the matter was directed to be fixed for today. This application is being disposed of on the basis of averments made in the petition and after hearing learned counsel for the opposite parties at the admission stage itself.

This revision application is directed against the order dated 12.4.2016 passed by learned Principal Judge, Family



Court, Araria in Maintenance Case No. 200 of 2014, whereby and whereunder the petitioner-husband is directed to pay Rs.3000/- per month to opposite party No.2-wife.

The fact giving rise to this application, in short, is that opposite party No.2-applicant has filed a maintenance case before the Family Court, Araria stating, inter alia, therein that she was married to the petitioner having three children also but on account of insufficient dowry she was tortured and harassed and ultimately she was driven out from the matrimonial house and she was at the point of starvation and vengeance, as such she has prayed for maintenance. Further she has also come with a case that she has no source of income and petitioner has solemnized second marriage with another lady. It appears that the story of second marriage of husband-petitioner was admitted by the Family Court, who has come to a conclusion that she was ousted from the matrimonial house and thereafter second marriage was performed by the husband-petitioner and opposite party No.2 has no source of income, whereas the husband-petitioner has a landed property and he has income of Rs.13,000/- per month, which will appear from the evidence of PW 4, the petitioner and his evidence further disclosed that a case under Section 498A IPC has also been filed. Considering



the above the learned Family Court has come with a finding that wife-applicant has been subjected to cruelty and ousted from the house and as such she is living separately and she has no source of income. About the quantum of award is concerned, learned Family Court considering the settled law that husband, who is able bodied person, has to maintain his wife and children he has passed the award of Rs.3000/-.

Being aggrieved by the same, the present revision application is filed by the petitioner-husband on the ground that he is ready to keep the opposite party No.2 and he has transferred 32 decimals of land in favour of opposite party No.2 and as such she is not entitled to maintenance. On the other hand, learned counsel for the opposite parties has defended the impugned order and submitted that she has no source of income having three children to maintain and as such learned Family Court has rightly allowed the maintenance.

Heard learned counsel for the opposite parties and on perusal of the record it appears that the ground taken by the petitioner that he is still ready to keep her and he has transferred 32 decimals of land to her but no evidence to show the transfer of land to opposite party No.2, applicant has been brought on the record. Factum of marriage and children from marriage is



admitted. rather evidence shows that he has married with another lady, which is one of the reasons for the opposite party No.2 to live separately.

In view of the above, I find no illegality in the impugned order. Accordingly, this revision application is dismissed.

However, it has been submitted by learned counsel for the opposite parties that no maintenance amount has been paid till date. In the said circumstances, it is always open to the opposite party No.2 to move before the learned Family Court for realisation of amount, who will pass an appropriate order in accordance with law.

(Vinod Kumar Sinha, J)

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