

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.852 of 2016

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

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Kamlesh Singh @ Kamlesh Prasad son of Gaya Singh @ Gaya Prasad
resident of Village- Yogipur, P.S.- Gopalpur, Distt- Gopalganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Chhatia Devi wife of Kamlesh Prasad and daughter of Jagarnath Singh
presently resident of Village- Balepur, P.O.- Bathua Bazar, P.S.- Sripur,
Distt- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satyendra Rai
For the Respondent/s : Mr. Surendra Kumar

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 05-09-2019 This revision application is directed against the

judgment dated 25.6.2016 passed by learned Principal Judge,

Family Court, Gopalganj in Maintenance Case No. 724 of 2013

whereby and whereunder the opposite party No.2-wife was

allowed maintenance of Rs.3000/- per month.

The fact, in short, is that opposite party No.2 has filed
a Maintenance Case before the Principal Judge, Family Court,
Gopalganj on the ground that she was married with the
petitioner and after marriage she was ousted from the house
with respect to demand of motorcycle and others and for that
she has lodged a case under Sections 498A and 406 IPC and she
is unable to maintain herself, whereas petitioner has seven bighs



of land and he has earned Rs. 5 lac per annum, as such petitioner is able to maintain her.

On the other hand, petitioner has filed show cause denying the allegation of torture and demand. However, he has admitted the factum of marriage with opposite party No.2. His further case is that opposite party No.2 is a quarrelsome lady and she fled away from his house on 1.6.2008. Further case is that he has only one kattha of land given by his relative and further petitioner has filed a divorce case against the applicant-opposite party No.2.

During trial two witnesses have been examined on behalf of the applicant-wife, whereas petitioner-husband has got himself examined before the Family Court.

Learned Family Court after considering the evidence available on the record allowed the maintenance case filed by applicant-opposite party No.2 and petitioner was directed to pay Rs.3000/- per month to opposite party No.2 as maintenance.

Learned counsel for the petitioner has assailed the impugned judgment on the ground that without assessing income of the petitioner the maintenance case filed by applicant-wife was allowed directing him to pay Rs.3000/- per month to opposite party No.2-wife as maintenance. On the other



hand, petitioner has no ancestral land and he is doing nothing.

None appears on behalf of opposite party No.2 though record shows that opposite party No.2 has appeared by filing Vakalatnama.

Heard learned APP.

Having heard learned counsel for the petitioner and learned APP and on perusal of the record it appears that marriage of the petitioner with opposite party No.2 is admitted. It is also admitted that opposite party No.2 is residing separately in her Maik.

So far the question as to whether the applicant is able to maintain herself is concerned, there is absolutely nothing on the record to show that opposite party No.2 has any income to maintain herself, whereas as per case of applicant, petitioner has seven bighas of land and he has income from that land, which has been denied by the petitioner-husband stating that he has only one kattha of land and that has also submerged in river Gandak and at present he is doing nothing. It further appears from the impugned judgment that there is no finding on the record to show monthly/annual income of the petitioner but considering fact that Rs.3000/- has only been allowed to opposite party No.2 and, that too, when it appears that petitioner



is an able bodied person he is maintaining himself and being husband he has to maintain his wife-opposite party No.2 also even by doing work on daily wage and in labour work minimum wage is (Rs.300 x 30), i.e., Rs.9,000/- per month, 1/3rd of which comes to Rs.3000/- which has been awarded to opposite party No.2-applicant as maintenance. As such the amount of maintenance does not appear to be excessive.

In view of the discussions made above, I find no illegality in the impugned judgment passed by learned Family Court. Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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