

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1131 of 2018

Akhtar Alam @ Akhtar Ali @ Akhtar S/o Zahirul Haque @ Zaherul @ Jahrul
Haque R/o Kajlamani, P.S.- Kochadhaman , District- Kishanganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ametun Nisha D/o Jabbar , R/o Kajlamani, P.S.- Kochadhaman, Distt.-
Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Firoz Ahmad, Adv
For the Respondent/s	:	Mr.Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-03-2019

Heard parties.

2. This criminal revision petition has been filed for setting aside the order dated 18.07.2018 passed in Maintenance Case No. 54 of 2017 (CIS No. 54 of 2017) by Principal Judge, Family Court, Kishanganj by which the learned Judge Family court has directed for payment of maintenance of Rs. 3000/- per month to the two minor sons, from the date of application filed by Opposite Party No. 2 in the Family Court, Kishanganj, stating therein that the marriage between the petitioner and Opposite Party No. 2 was solemnized 13 years before according



to Muslim rites and customs and from the said wedlock two sons were born but thereafter she was being threatened to divorce petitioner for which panchayati was held several times but petitioner denied the decision of panchayati and Opposite Party No. 2 was ousted from her matrimonial home on 06.05.2017 along with her two minor sons. It has been further stated that she does not have any source of income whereas petitioner-husband earns Rs. 35,000/- per month but does not maintain his wife or minor children, as such Wife-Opposite Party No. 2, filed a case for grant of maintenance of Rs. 15,000/- per month for her and her minor children. Petitioner-husband has appeared before the Family Court and the matter was referred to reconciliation but petitioner refused to take Wife- Opposite Party No. 2 with him and denied the claim of maintenance filed by Wife- Opposite Party No. 2. He has further stated that Wife- Opposite Party No. 2 left her matrimonial home as per her own will and on 01.03.2017 a panchayati was held on 20.03.2017 in which Opposite Party No. 2 told that she will not live with petitioner-husband. The petitioner-husband is unskilled labour and is depositing Rs. 1000/- per month pursuant to order passed Kochadhaman P.S. Case No. 67 of 2017.



3. Four witnesses have been examined on behalf of Opposite Party No. 2 whereas three witnesses have been examined on behalf of petitioner-husband.

4. Wife-Opposite Party No. 2 in her deposition has stated that marriage between the parties was solemnized 12 years before and thereafter she lived peacefully in her matrimonial home and thereafter she was assaulted and harassed on trivial domestic matters. Two sons were born from said wedlock who are 7 and 5 years old. Petitioner-husband demanded money to purchase bike and on refusal she was assaulted and ousted from her matrimonial home along with her two minor sons. She has further stated that the petitioner-husband possesses six bighas of cultivable land and is also a Mason and gets contract for building construction and earns Rs. 2 Lacs per year. She has claimed maintenance of Rs. 15,000/- to live with dignity and comfort along with her minor children. The case of Wife-Opposite Party No. 2 has been supported by the witnesses and they have been cross-examined on behalf of petitioner-husband.

5. Petitioner-husband has been examined as O.P.W-1 who in his deposition has admitted the factum of marriage and due to dispute with wife-Opposite Party No. 2, he divorced her.



He has further stated that he is a labourer and has also to look after his old parents and has admitted that his father possess 10 Kathas of land which is in joint possession. He has admitted that he earns Rs. 15,000/- per month.

6. In support of petitioner-husband two witnesses have been examined who have supported the case of petitioner-husband.

7. Considering the materials available on record and after hearing the parties, the Family Court has held that the factum of marriage between the parties and two sons born out of the said wedlock is admitted. Wife-Opposite Party No. 2 and witnesses examined on her behalf have admitted the divorce between the parties and the petitioner-husband himself has admitted that he is earning Rs. 15000/- per month and the Opposite Party No. 2 and her minor children are unable to maintain themselves is bound to maintain them and has been directed for payment of Rs. 6000/- per month as amount of maintenance to both the minor children through her mother. However, as both the parties have admitted that there has been divorce between them Opposite Party No. 2 is not entitled for maintenance.

8. Opposite Party No. 2 wife has not challenged the



order passed by the Family Court denying maintenance to her but petitioner-husband has filed this case against the direction of Family Court to pay Rs. 3000/- each to two minor sons amounting to Rs. 6000/- per month as maintenance to two minor sons until they attain majority from the date of application.

9. After hearing learned counsel for the parties, this Court does not find any illegality, irregularity, error or infirmity in the order passed by the Family Court.

Accordingly, the criminal revision petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.04.2019
Transmission Date	05.04.2019

