

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.906 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Gaya

ANIRUDDHA SINGH @ ARUN SINGH @ ANRUDH KUMAR SINGH @
ANIRUDH KUMAR SINGH Son of Late Ganga Singh Resident of Village -
Paraiya Khurd, P.O and P.S.- Paraiya, Dist.- Gaya (Bihar) PIN-824209

... .. Petitioner/s

Versus

1. BAIJANTI DEVI Wife of Aniruddh Singh @ Arun Singh , D/o Janardan Singh Resident of Village - Paraiya Khurd, P.O and P.S.- Paraiya, Dist.- Gaya (Bihar) PIN-824209, At present residing at Village - Manikpur, P.O. and P.S.- Wazirganj, O.P.- Tankuppa, dist.- Gaya. (Bihar).
2. Anjani Kumari D/o Aniruddh Singh @ Arun Singh (Minor Girl under Guardianship of her Mother Baijanti Devi i.e. Respondent no.1) Resident of Village - Paraiya Khurd, P.O and P.S.- Paraiya, Dist.- Gaya (Bihar) PIN-824209, At present residing at Village - Manikpur, P.O. and P.S.- Wazirganj, O.P.- Tankuppa, dist.- Gaya. (Bihar).
3. Shravan Kumar Singh Son of Aniruddh Singh @ Arun Singh (Minor Boy under Guardianship of His Mother Baijanti Devi i.e. Respondent No.1). Resident of Village-Paraiya Khurd, P.O and P.S.- Paraiya, Dist.- Gaya (Bihar) PIN-824209, At present residing at Village - Manikpur, P.O. and P.S.- Wazirganj, O.P.- Tankuppa, dist.- Gaya. (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shakib Ayaz
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 02-12-2019

The present petition has been filed against the judgment and order dated 08.03.2018 passed by the learned Principal Judge, Family Court, Gaya in Miscellaneous Case No. 109 of 2012, whereby and whereunder the learned court below has allowed the application of the opposite party no. 1 herein under Section 125 of the Cr.P.C. and directed the petitioner herein to pay a sum of Rs. 6,000/- per month to the respondents.



The brief facts of the case are that the opposite party no. 1 namely, Baijanti Devi was married with the petitioner herein on 01.02.1998 as per the Hindu rites and customs and though the opposite party no. 1 had stayed in her matrimonial home for considerable time but she was always tortured by her husband and in-laws on account of non-fulfilment of the demand for dowry. It has been further stated in the complaint petition that out of the wedlock, two children were born i.e. one daughter and one son, who are opposite party nos. 2 and 3 herein. It is further alleged that in the year 2006, the opposite party no. 1 along with her children were thrown out of the matrimonial home whereafter she had gone to her parental house and has been living in a pitiable condition on account of financial constraint due to the petitioner herein having refused to maintain them. It has also been stated that the petitioner is an employee in Eastern Railway on the post of Khalasi and is getting a handsome salary apart from him having substantial income from agriculture. Thus, it has been prayed in the said petition dated 04.02.2012, which has been numbered as Miscellaneous Case No. 109 of 2011, that the Hon'ble Court may consider granting a sum of Rs. 10,000/- per month as maintenance apart from 50 per cent share in the land and property of the petitioner herein.



The learned counsel for the petitioner has submitted that the petitioner is ready and willing to keep the opposite parties, hence there is no question of payment of any sum of maintenance. It is further submitted that the impugned order dated 08.03.2018 has been passed in an arbitrary manner and in any case the maintenance awarded in favour of the opposite parties to the tune of Rs. 6,000/- per month is excessive.

I have heard the learned counsel for the parties and I find that the impugned order dated 08.03.2018 has been passed by the learned Principal Judge, Family Court, Gaya not only after consideration of the complaint petition filed under Section 125 Cr.P.C. but also after considering the evidence adduced by the opposite parties. I also find that though the petitioner herein had appeared, upon notice, before the learned trial court in the aforesaid maintenance case but he chose not to file any show cause reply or counter affidavit to the said petition filed by the opposite parties under Section 125 Cr.P.C., thus this Court is of the view that the petitioner did not have any intention to oppose the prayer of the opposite parties for grant of maintenance and it appears that the present revision petition has been filed in a mala fide manner just to linger the proceeding and agony of his wife and children.



At this juncture, it would be relevant to refer to a judgment rendered by the learned Three Judges' Bench of the Hon'ble Apex Court, reported in **2018(SCC on-line) SC 1643 (Reema Salkan vs. Sumer Singh Salkan)**, paragraph nos. 13, 14 and 16 whereof are reproduced herein below:-

"13. Be that as it may, the High Court took into account all the relevant aspects and justly rejected the plea of the respondent about inability to pay maintenance amount to the appellant on the finding that he was well educated and an able bodied person. Therefore, it was not open to the respondent to extricate from his liability to maintain his wife. It would be apposite to advert to the relevant portion of the impugned judgment which reads thus:

"79. The respondent during the cross examination has admitted that he too is B.Com., M.A.(Eco.) and MBA from Kentucky University, USA; the respondent is a Canadian citizen working with Sprint Canada and is earning Canadian \$(CAD) 29,306.59 as net Annual Salary. However, he has claimed that he has resigned from Sprint Canada on 23.11.2010 and the same has been accepted on 27.11.2010 and the respondent since then is unemployed and has got no source of income to maintain himself and his family.

80. In the instant case, the petitioner has filed the case under Section 125 Cr.P.C., 1973 for grant of maintenance as she does not know any skill and specialised work to earn her livelihood i.e. in paragraph 26 of maintenance petition against her husband. However, the respondent husband who is



well educated and comes from extremely respectable family simply denies the same. The respondent husband in his written statement does not plead that he is not an able bodied person nor he is able to prove sufficient earning or income of the petitioner.

*81. It is an admitted fact emerging on record that both the parties got married as per Hindu Rights and Customs on 24.03.2002 and since then the petitioner was living with her parents from 10.08.2002 onwards, and the parents are under no legal obligation to maintain a married daughter whose husband is living in Canada and having Canadian citizenship. The plea of the respondent that he does not have any source of income and he could not maintain the wife is no answer as he is mature and an able bodied person having good health and physique and he can earn enough on the basis of him being able bodied to meet the expenses of his wife. In this context, the observation made in **Chander Prakash v. Shrimati Shila Rani, AIR 1968 Del 174** by this Court is relevant and reproduced as under:*

"7.....an able bodied young man has to be presumed to be capable of earning sufficient money so as to be able reasonably to maintain his wife and child and he cannot be heard to say that he is not in position to earn enough to be able to maintain them according to the family standard. It is for such ablebodied person to show to the Court cogent grounds for holding that he is unable, for reasons beyond his control, to earn enough to discharge his legal obligation of maintaining his wife and child."



82. *The husband being an able-bodied person is duty bound to maintain his wife who is unable to maintain herself under the personal law arising out of the marital status and is not under contractual obligation. The following observation of the Apex Court in **Bhuwan Mohan Singh v. Meena, AIR 2014 SC 2875**, is relevant:*

"3.....Be it ingeminated that Section 125 of the Code of Criminal Procedure (for short "the Code") was conceived to ameliorate the agony, anguish, financial suffering of a woman who left her matrimonial home for the reasons provided in the provision so that some suitable arrangements can be made by the court and she can sustain herself and also her children if they are with her. The concept of sustenance does not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else. She is entitled in law to lead a life in the similar manner as she would have lived in the house of her husband. That is where the status and strata come into play, and that is where the obligations of the husband, in case of a wife, become a prominent one.

In a proceeding of this nature, the husband cannot take subterfuges to deprive her of the benefit of living with dignity. Regard being had to the solemn pledge at the time of marriage and also in consonance with the statutory law that governs the field, it is the obligation of the husband to see that the wife does not become a destitute, a beggar. A situation is not to be maladroitly created where under she is compelled to resign to her fate and think of life "dust unto dust". It is totally



impermissible. In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.

(emphasis applied)

83. The respondent's mere plea that he does not possess any source of income ipso facto does not absolve himself of his moral duty to maintain his wife in presence of good physique along with educational qualification."

14. The view so taken by the High Court is unassailable. Indeed, the respondent has raised a plea to question the correctness of the said view, in the reply affidavit filed in this appeal, but in our opinion, the finding recorded by the High Court is unexceptionable.

16. We, therefore, direct the respondent to pay the enhanced maintenance amount, as determined in terms of this order, to the appellant within a period of eight weeks from today after duly adjusting the amount already deposited in Court/paid to the appellant till date. The appellant will be entitled to forthwith withdraw the maintenance amount deposited by the respondent in Court, if any. The impugned judgment of the High Court is accordingly modified in the aforementioned terms."

A bare perusal of the aforesaid judgment rendered by



the Hon'ble Apex Court in the case of Reema Salkan (supra) would demonstrate that an able body young man is presumed to be capable of earning sufficient money so as to be able to reasonably maintain his wife and child and he cannot be heard to say that he is not in a position to earn enough to be able to maintain them according to the family standard. It is equally a well settled law that Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who left her matrimonial home so that some suitable arrangement can be made by the Court and she can sustain herself as also her children, if there are any, and it is the obligation of the husband to ensure that his wife leads a life in a similar manner as she would have lived in the house of her husband, hence it is the sacrosanct duty of the husband to render her financial support and he cannot take subterfuges to deprive her of the benefit of living with dignity, thus any plea by the husband that he does not possess any source of income, *ipso facto* does not absolve him of his moral duty to maintain his wife and children.

Having regard to the facts and circumstances of the case and considering the materials on record as also the impugned order dated 08.03.2018 and applying the principle of law



enunciated by the Hon'ble Apex Court in the case of **Reema Salkan** (supra), **Bhuwan Mohan Singh** (supra) and **Chander Prakash** (supra), this Court finds that there is no infirmity or error in the impugned judgment dated 08.03.2018. This Court further finds that the petitioner is under an obligation to maintain his legally wedded wife i.e. the opposite party no. 1 and his children i.e. the opposite party nos. 2 & 3. This Court also finds that the learned Principal Judge, Family Court, Gaya has awarded a meager amount of Rs. 6,000/- per month vide the impugned judgment dated 08.03.2018, with a view to provide succor to three individuals i.e. the wife of the petitioner and his two children, thus this Court is of the considered view that the maintenance so awarded is not excessive at all, especially keeping in mind the spiraling inflation rate and high cost of living index, prevailing today as also the fact that the petitioner is a Railway Employee, thus the present petition stands dismissed being devoid of any merit.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	07.02.2020
Transmission Date	07.02.2020

