

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.964 of 2019

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

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Anjani Kumar Srivastava Son of Keshav Prasad Srivastava Resident of Mohalla- Maula Bagh, Ara (in the West Gali of Vyas Keshav Press), Police Station- Ara Nawada, District- Bhojpur at Ara

... .. Petitioner/s

Versus

Sweta Kumari D/o Late Shankar Dev Narayan Verma Resident of Mohalla- Ward No. 18, Police Station- Bhabhua, District- Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rahul Nath
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 09.12.2019

The present petition has been filed against the order dated 11.4.2019 passed in Matrimonial Case N o. 146 of 2014 by the Principal Judge, Family Court, Bhojpur at Ara whereby and where-under the maintenance case has been allowed and a direction has been given to the petitioner herein to pay a sum of Rs. 6,000/- per month to his wife, opposite party herein, and a sum of Rs. 4000/- per month to his minor son.

2. The brief facts of the case are that the marriage of the petitioner and the opposite party is stated to have been solemnized on 23.06.2010 as per the Hindu rites and customs at the house of the opposite party herein at Bhabua. It further appears that a child was born out of the wedlock on 20.09.2013 and on account of the ill-health of the child, the parents of the opposite party herein had spent a huge amount of money,



however, the petitioner and his family members did not contribute any money. Subsequently, it appears that on account of matrimonial dispute, the opposite party herein was thrown out of the matrimonial house, where-after the petitioner is stated to have filed a petition for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955, which was registered as Matrimonial Case No. 146 of 2014 and is pending before the Principal Judge, Family Court, Bhojpur at Ara.

3. It appears that the opposite party herein had filed a petition under section 24 of the Hindu Marriage Act for grant of interim maintenance during the pendency of the divorce case, however, the same was rejected by the learned Principal Judge, Family Court, Bhojpur at Ara by an order dated 25.01.2017, which was challenged by the opposite party before this court by filing a petition bearing Civil Miscellaneous Jurisdiction Case No. 459 of 2017 and this Court, finding that the petitioner herein is a teacher in a Government school, set aside the order of the Family Court, Bhojpur at Ara dated 25.01.2017 and directed the learned Family Court to dispose of the petition of the opposite party herein for grant of interim maintenance, within a period of two months by hearing the parties afresh.



4. The learned Family Court had heard the matter afresh and it has come to the finding that the husband i.e. the petitioner herein is the Government teacher and though he is ready to give maintenance to his son, he is not ready to take his wife with him. The learned Family Court has further come to a finding that the petitioner herein is in a Government job since 2010 and during the conciliation it appeared that he is not ready to take his wife with him without any just and proper cause. It has also been found by the learned Family Court that the opposite party herein has got no independent source of income to support her and her child and the husband i.e. the petitioner herein has not led any evidence to support his contention that the opposite party herein is also earning. Consequently, the learned Family Court has awarded a sum of Rs. 6000/- per month by way of interim maintenance to the opposite party herein i.e. the wife of the petitioner and a sum of Rs. 4000/- per month for their minor son, apart from litigation expenses.

5. The learned counsel for the petitioner has submitted that though the petitioner is working as teacher, but he has not been paid salary since the very inception, hence he is not in a position to pay maintenance amount so awarded by the learned



Family Court, Bhojpur at Ara.

6. I have heard the learned counsel for the parties and perused the material on record as also the impugned order dated 11.04.2019 and this Court finds that the earlier order of the Family Court, Bhojpur at Ara dated 25.01.2017 was set aside by a co-ordinate Bench of this Court, as aforesaid, on the ground that the learned Family Court had illegally rejected the petition of the wife for grant of interim maintenance on the ground that there is no evidence of income of the husband. Now, by the impugned order dated 11.04.2019, the learned Family Court has found that the petitioner is in a Government job since the year 2010 and since he is not ready to keep his wife with him and the wife has got no independent source of income to support herself and her child and to meet necessary expenses, it is prudent and necessary to grant maintenance to the opposite party and her child. This Court is of the considered view that since the marriage is admitted and the petitioner does not want to keep his wife i.e. the opposite party and further no proof has been produced by the petitioner to show that the opposite party is having a good earning, this Court finds that the learned court below has rightly decided to award interim maintenance in favour of the wife and the child of the petitioner herein, hence this Court does not find any infirmity, illegality and



jurisdictional error in the impugned order dated 11.04.2019, thus the present revision petition stands dismissed.

7. At this juncture, it would suffice to state that it is a well settled law that 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 financial support to his wife and he cannot take subterfuges to deprive her of the benefit of living with dignity, thus any plea taken 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.

8. As far as quantum of maintenance awarded to the opposite party herein is concerned, the same is also a meager amount and is not excessive, especially keeping in mind the spiraling inflation rate and high cost of living index, prevailing today, hence on this score as well, there is no merit in the case of the petitioner herein, hence the present petition stands dismissed, being devoid of any merit.

Tiwary/-

(Mohit Kumar Shah, J)

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

