

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.497 of 2018

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

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Saurabh Bhatt S/o Krishna Kant Sharma, R/o Village- Krishna Sadan, P.S.-
Biharsharif, District- Nalanda.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Mayuri Munni, W/o Saurabh Bhatt, D/o Dinesh Chandra Maharaj, R/o
Mohalla- Krishna Sadan, Kachahari Road, P.S.- Biharsharif, District-
Nalanda at present Maik Mohalla- Sri Krishnapuri, R.N.A.R. College Road
P.S.- Samastipur, Dist- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raj Kishor Prasad, Adv
For the O.P. No. 2	:	Mr. Abhay Shankar Singh, Adv
For the State	:	Mr. Arbind Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 12-03-2019

Heard parties.

2. This criminal revision petition has been filed against the judgment and order dated 01.06.2017 passed in Matrimonial Case No. 105 of 2000, by which Principal Judge, Family Court has awarded maintenance of Rs. 5000/- per month to Opposite Party No. 2 from the date of filing of petition by her.

3. Complainant-Opposite Party No. 2 in her petition filed before the family court for grant of maintenance under Section 125 of Cr.P.C has stated that she is legally wedded wife



of petitioner and her marriage was solemnized on 07.05.2014 according to Hindu rites and customs and cash, presents and gifts were given at the time of marriage and after marriage when she went to her matrimonial home after sometime petitioner started demanding Rs. 5 Lacs by way of dowry and for non-fulfillment of which she was abused and assaulted. She informed her parents about the cruelty meted out and then they came and showed their helplessness and poor economic condition to fulfill the demand of petitioner, however, they continued to keep on demanding the dowry amount.

4. The Complainant-Opposite Party No. 2 returned to her parental home on 27.07.2014, and on 15.02.2016 petitioner came and forcibly took her on 16.02.2016 to her matrimonial home, but again she was assaulted and tortured in her matrimonial home for non fulfillment of demand of dowry of Rs. 5 Lacs and Opposite Party No. 2 thereafter was again forced to return to her parental home.

5. Opposite Party No. 2 filed maintenance case under Section 125 of Cr.P.C demanding Rs. 20,000/- per month as maintenance and it was stated by her that her husband-petitioner had sufficient income from School, house rent and Agriculture. She stated in her deposition that petitioner is running a School



and from which he has income of Rs. 50,000/- per month and he gets income of Rs. 50,000/- from house rent and nearly 2 to 3 Lacs per annum from agriculture, as such she is entitled for maintenance of Rs. 20,000/- per month.

6. Notices were issued to accused-petitioner and from record, it appears that the same was validly served upon petitioner, however, even thereafter he did not choose to appear and contest the matter. Publication was also made in the widely circulated newspaper but still petitioner did not appear and the matter was decided *ex-parte*.

7. It has been submitted on behalf of petitioner that no notice was ever served upon him and even after publication in the newspaper, he could not know about pendency of this maintenance case before the Family Court. He has stated that Opposite Party No. 2 is educated lady and is running a clinic as a Physiotherapist in her parental home and she has sufficient income to maintain herself whereas petitioner is an unemployed person, as such the order of grant of maintenance may be set aside.

8. The factum of marriage has not been disputed. If the petitioner was aggrieved that no notice was validly served upon him and he had no knowledge about the proceeding before the



family court and the proceeding has been decided in his absence without any knowledge to him then the petitioner had option to file a petition before the court below for cancelling the maintenance order on the ground that no notice was served upon him and he had no knowledge about the proceeding and same has been decided *ex parte* in his absence and upon consideration of which, the Family Court was empowered to cancel the maintenance order, if the petitioner could satisfy the court that no notices were validly served upon him and even after paper publication, he was not aware of such proceeding but instead of choosing said remedy, he has filed this criminal revision petition on merit and as such the revision petition is being heard on merit.

9. The Family Court has also in its *ex parte* order duly considered that Opposite Party No. 2 has not given details with respect to School which is being run by the petitioner as well as no details of house from which it is alleged that petitioner is having income by way of house rent nor details of any agricultural land has been given from which it is alleged that petitioner is having sufficient agriculture income, as such the claim of Opposite Party No. 2 for grant of Rs 20,000 per month as maintenance has been denied by the Family Court due to lack



of supportive documents on the basis of which court would have come to a definite finding regarding monthly income of petitioner. However, the Family Court has held that Opposite Party No. 2 is legally wedded wife of petitioner and he is bound to maintain her and there are sufficient reasons for her for not staying with petitioner, however, the petitioner himself in this petition has stated that he is working in a private college and he gets remuneration as and when the college get aid from the government and as such the grant of maintenance of Rs. 5000/- per month in favour of Opposite Party No. 2 is reasonable and cannot be said to be excessive.

The criminal revision petition is devoid of any merit and it is, accordingly, dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.03.2019
Transmission Date	25.03.2019

