

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.883 of 2018

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

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Rajeev Kumar Son of Ram Prasad Ram, Resident of Village- Kauri Khutauna,
P.S.- Mirja Chauki Distt- Sahebganj Jharkhand.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Kavita Devi, Wife of Rajeev Kumar, R/o Kauri Khutauna, P.S.- Mirjachauki,
District- Sahebganj Jharkhand at present daughter of Jagarnath Prasad, R/o
Village/Muhalla- Alinagar P.S.- Biharsharif, Distt- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumari Sujata Sinha
For the Respondent/s : Mr.Sri Satyendra Prasad

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-03-2019

Heard parties.

2. This criminal revision petition has been filed against the judgment and order dated 29.01.2017 passed in Maintenance Case No.134M of 2015, by which Principal Judge, Family Court, has awarded maintenance of Rs. 4000/- 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 in the



year 2008 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 she gave birth to one baby boy and when she procreated baby girl petitioner started demanding Rs. 50,000/- and one motorcycle by way of dowry. 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 due to non-fulfillment of which she was abused, assaulted and ousted from her matrimonial with her two children.

4. The Complainant-Opposite Party No. 2 returned to her parental home on 01.12.2014, and since then she is residing in her parental home.

5. Opposite Party No. 2 filed maintenance case under Section 125 of Cr.P.C demanding Rs. 18,000/- per month as maintenance and it was stated by her that her husband-petitioner had sufficient income from General Store, Store of Mobile Recharge, Sale and Repair, house



rent, agricultural land and two Commander Jeeps. She stated in her deposition that petitioner has income of Rs. 20,000/- per month from General Store, Store of Mobile Recharge, Sale and Repair, Rs. 8,000/- from house rent per month, nearly 20,000/- per annum from agricultural land and Rs. 30,000/- per month from two Commander Jeeps, as such she is entitled for maintenance of Rs. 18,000/- per month.

6. Notices were issued to accused-petitioner and from perusal of 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 working in Child Remand Home, Sheikhpura, and she



has sufficient income to maintain herself whereas petitioner is a teacher in School and is getting only Rs. 3000/- per month, 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 General Store, Store of Mobile Recharge, Sale and Repair, house rent, agricultural land and two Commander Jeeps 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 18,000 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 School and as such the grant of maintenance of Rs. 4000/- 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
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