

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.192 of 2018

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

Shivjee Sah, Son of Mukhlal Sah, Resident of Village- Dinara, P.S.- Dinara,
District- Rohtas (Sasaram).

... .. Petitioner

Versus

1. The State of Bihar
2. Rukmina Devi, daughter of Rajbansh Sah, resident of Village- Gudura, Post-
Sakari, P.S.- Kudra, District- Kaimur Bhabua.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Adv. Mr. Ajay Nandan Sahay, Adv. Mr. Chandra Mohan Jha, Adv.
For the Respondent/s	:	Mr. Jai Nr. Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 06-02-2020 Heard learned counsel for the petitioner and learned
counsel for the State. Although notice has been served on
opposite party no. 2, she has not appeared in this Court.

Petitioner is aggrieved by and dissatisfied with the
order dated 18.12.2017 passed by learned Principal Judge,
Family Court, Kaimur at Bhabhua in Maintenance Case No.
93M/2014. By the impugned order the learned Principal Judge,
Family Court, Kaimur at Bhabhua has been pleased to award a
maintenance of Rs. 3,000/- per month to opposite party no. 2.

Learned counsel for the petitioner submits that the
petitioner is always ready and willing to keep the opposite party
no.2 as his legally wedded wife with full dignity and care but it
is the opposite party no. 2 who is not living with the petitioner



and in fact it was his case before the court below that she has solemnized marriage with the younger brother of the petitioner. Learned counsel has further submitted that the quantum of maintenance being Rs. 3,000/- per month is excessive and requires modification taking into consideration that the petitioner is a labour class worker and does not have much income to part with this amount.

Although opposite party no. 2 has not appeared but the learned counsel for the State has assisted this Court saying that given the kind of the financial condition of the opposite party no. 2, this Court can well appreciate that perhaps she is not in a position to contest the case by appearing before this Court and then engaging a lawyer of her choice. It is submitted that the order was passed as back as on 18.12.2017 but learned counsel for the petitioner has not admitted in course of argument that for the present the petitioner is not paying any amount rather learned counsel for the petitioner has submitted that he does not have any knowledge as to whether the petitioner is paying the said amount.

Having heard learned counsel for the petitioner and the State and upon going through the materials particularly the kind of evidences which were adduced before the learned



Principal Judge, Family Court, Kaimur at Bhabhua, this Court finds that the assertion of the petitioner in the court below that his wife-opposite party no. 2 had solemnized a second marriage with Chandan Kumar who is younger brother of the petitioner has not been substantiated by producing any evidence much less any cogent evidence. The learned Principal Judge, Family Court, Kaimur at Bhabhua has taken notice of the statements made in course of deposition by the father of the petitioner who has also not supported the case of the petitioner with regard to solemnization of marriage by opposite party no. 2 with the younger brother of the petitioner. Opposite party witness no.3 Hanuman Sah who is younger brother of the petitioner has also admitted that opposite party no. 2 is the wife of this petitioner and therefore she is his Bhabhi.

On the basis of the materials available on the record the learned Principal Judge, Family Court, Kaimur at Bhabhua has found that this petitioner is a healthy person and is engaged in work on Daily Wages basis and then by taking a view that it is a moral and legal duty to maintain his wife, he has awarded a sum of Rs. 3,000/- per month to opposite party no. 2.

Learned counsel for the petitioner has submitted that in the village daily wages would not be more than Rs. 300-400/-



and that too the petitioner may not be getting his work every day. Even if the submission of learned counsel for the petitioner is accepted for the present, on estimation the petitioner could be earning at least Rs. 9,000/- per month and in any case a sum of Rs. 3,000/- per month as maintenance comes to Rs. 100/- per day, for the two times meals and other necessities of the wife of the petitioner cannot be said to be excessive or exaggerated amount.

Finding no illegality or infirmity with the order impugned, this application is dismissed. The opposite party no.2 shall get the order executed in accordance with law.

Learned counsel for the petitioner submits that the petitioner is looking for conciliation. In the opinion of this Court if the petitioner is looking for conciliation and mediation, he may approach the appropriate Mediation Centre/court/forum for this purpose. However, the same cannot be a ground to withhold the maintenance amount already awarded to opposite party no. 2.

(Rajeev Ranjan Prasad, J)

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