

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.866 of 2016

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

Akhilesh Yadav son of Sri Tulsi Yadav, resident of Village- Gurwaliya, Police Station- Manuapur, District- West Champaran.

... .. Petitioner

Versus

Anita Devi daughter of Shiv Balak Yadav, resident of Village- Sonwal Godam, Police Station- Malahi, District- East Champaran.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Respondent/s : Mr. Dilip Kumar Tandon, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-02-2020 Heard learned counsel for the petitioner and learned counsel representing opposite party.

The petitioner in this case is aggrieved by and dissatisfied with the judgment and order dated 22.07.2016 passed in Maintenance Case No. 390 of 2010 by learned Principal Judge, Family Court, East Champaran at Motihari whereby and whereunder the petitioner has been directed to pay Rs. 5000/- per month to the opposite party for the maintenance by 15th day of every succeeding month with effect from filing of the petition i.e. 02.11.2010. The petitioner was further directed to pay a lump-sum amount of Rs. 8000/- to the opposite party towards cost of litigation.

Learned counsel for the petitioner has mainly argued before this court that the petitioner is ready and willing to keep



the opposite party as his wife with full dignity and care but it is the opposite party who is not willing to live with him.

On the point of income, although it is his submission that the learned court below has not assessed the income of the petitioner but at the same time learned counsel for the petitioner is unable to demonstrate that the petitioner had at any point of time in the court below controverted the claim of the wife-applicant that he has got ten acres of land and is engaged in the business of milk vending. No such evidence has been brought on record contrary to the claim of the wife-applicant.

Learned counsel for the opposite party has submitted that the opposite party is a handicapped lady and in the present case despite there being an award of Rs. 5000/- as maintenance to her with effect from the date of filing of the petition i.e. 02.11.2010 nothing has been paid to her.

Learned counsel submits that there being no denial of the claim of the wife-applicant that this petitioner has got ten acres of land and further that he is engaged in business of milk vending, learned court below has not committed any error in awarding a sum of Rs. 5000/- per month as maintenance of the wife. In his submission, considering the present price index of the country a sum of Rs. 5000/- is a peanut and it would be



difficult for the opposite party to maintain herself with that much of amount.

Having heard learned counsel for the parties and upon considering the materials present on the record and the evidence which are available on the record, this Court finds that the wife-applicant has categorically stated in her deposition that her husband has solemnized second marriage and the other witnesses who have deposed in the court below have also supported the case of the wife-applicant. The evidence of PW '2' i.e. the wife has been mentioned in the findings recorded in paragraph '6' of the impugned judgment and perusal of the judgment nowhere shows that this petitioner had controverted the claim of the wife-applicant that he is engaged in business of milk vending and got ten acres of land. This being the position, this Court finds no reason to interfere with the impugned order.

The application has no merit. It is dismissed accordingly.

Before this Court parts with the judgment having taken note of the submission of learned counsel for the opposite party that the petitioner has not paid a single paisa to the opposite party so far and in such circumstance the opposite party has been made to contest this case in this Court by



engaging a lawyer, this Court thinks it just and proper to award a cost of Rs. 10,000/- (ten thousand) as cost of litigation to opposite party which the petitioner shall pay within a period of 30 days from today, failing which it will be open for the opposite party to bring it to the notice of this Court. The opposite party shall now get the order of the court below executed in accordance with law.

(Rajeev Ranjan Prasad, J)

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