

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.156 of 2019

Arising Out of PS. Case No.-113 Year-2015 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Sunil Sah @ Sudhir Kumar son of Sakal Deo Sah resident of village- Balua,
P.S.- Kundawa, Chainpur, District- East Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. Soni Devi wife of Sunil Sah @ Sudhir Sah, resident of village- Hathaul,
Police Station- Pakaridayal, District- East Champaran.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Deep Anshuman, Advocate
For the Opposite Parties : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-10-2022 Learned counsel for the petitioner is present and has
prayed for adjournment.

Finding that this revision application is pending for more than three and half years and further finding that by the impugned order, the learned Principal Judge, Family Court, East Champaran has allowed the maintenance amount of Rs. 2,500/- per month only to opposite party no. 2 and the same is under challenge, this Court deems it just and proper to consider the revision application on its own merit on the basis of the materials available on the record.

It appears on perusal of the application under Section 125 Cr.P.C. that the marriage between the petitioner and the opposite party no. 2 was solemnized on 11.03.2011 in



accordance with Hindu Rites and Customs. Allegation is that the Opposite Party No. 2 was being tortured for non-fulfillment of demand of dowry and she was neglected by her husband. It is alleged that Opposite Party No. 2 was thrown out of her matrimonial house and since 04.12.2014, she is living at her Naihar somehow.

On the quantum of income of her husband, she has stated that her husband works as a tailor master in Chainpur Market and he earns Rs. 15,000/- per month. He has got a house comprising four rooms and has got at least two bighas of cultivable land.

Further on perusal of the impugned order, this Court finds that in the court below, both the parties were given appropriate opportunity to adduce the respective evidences. The applicant examined herself and three other witnesses. The opposite party-husband himself appeared and claimed that even though the applicant is his legally wedded wife but she had not entered into co-habitation with him. He also took a plea that he had filed Matrimonial Suit No. 364 of 2014. He claimed that he was unemployed.

Annexure '2' is a copy of judgment dated 19.11.2018 passed by learned Family Court in Suit No. 364/2014 which



reveals that this petitioner has obtained a decree of divorce against O.P. No. 2 on the ground of cruelty but while granting the said decree of divorce, no maintenance was fixed by the learned court below in the said suit simultaneously the impugned judgment has been passed u/s 125 Cr.P.C.

The applicant-wife instituted the present case under Section 125 Cr.P.C. in the year 2015. In the said case, the petitioner took a plea that he is engaged in stitching work in a shop which belongs to somebody else and earns Rs. 200/- per day.

The learned court below has, in the circumstances allowed the maintenance amount of Rs. 2,500/- per month only.

Having perused the records, this Court finds that the petitioner admits his engagement as a tailor in a shop. He does not dispute the marriage and has lead any evidence to show that his wife is statutorily debarred from getting maintenance or there is any statutory ground not to pay the same. Recently, in the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**, the Hon'ble Supreme Court has observed in paragraph '10' as under:-

“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has



also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In ***Chaturbhuj v. Sita Bai reported in (2008) 2 SCC 316***, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

The amount of maintenance awarded in this case is only Rs 2,500/- per month. Learned counsel for the petitioner is not aware as to whether this amount is being paid or not. To this Court, it appears that there is no ground, at all, available in this case to invite any interference with the impugned order. The meager sum of Rs. 2,500/- per month hardly comes to Rs. 80-83 per day and any reasonable person can easily come to a conclusion that even with this much amount, it is very difficult for a living being to sustain in the present days price-index of the country.

This Court, therefore, finds no merit in the revision application. It is dismissed accordingly.

If the petitioner has not paid and is not paying the maintenance amount as per the order of the learned court below, he will pay an additional sum of Rs. 25,000/- to the O.P. No. 2 besides the arrears of maintenance and current maintenance. The cost is



being imposed after finding that, in case, the petitioner has not paid the maintenance amount to his wife for almost 7-8 years and has kept her engaged in litigation and avoided his liability towards his wife, he would be liable to pay the cost.

This Court finds from the impugned order that the order has been made effective from 19.11.2018 which is the date of order. In the recent judgment of the Hon'ble Supreme Court in the case of **Rajnesh Vs. Neha reported in (2021) 1 SCC 324**, the Hon'ble Apex Court has laid down the law that the amount of maintenance be made effective from the date of institution of the application. In view of the judgment of the Hon'ble Supreme Court, there would be no hesitation on the part of this Court in modifying the order to the effect that the maintenance amount shall be payable from the date of institution of the application. The learned Principal Judge, Family Court, East Champaran (Motihari) shall, therefore, enforce the judgment taking the arrears with effect from the date of institution of the application.

This revision application is, thus, disposed of in the aforementioned terms.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

