

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1044 of 2016

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

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Anchalesh Yadav S/o Late Ratan Yadav Resident of Mohalla- Laxmi Sagar,
Chhapoki Chokkar P.S.- L.N.M.U. Darbhanga, Dist- Darbhanga.

... .. Petitioner

Versus

1. The State Of Bihar
2. Raspati Devi W/o Anchlesh Yadav, D/o Jagdish Yadav
3. Anshu Kumari minor daughter of Anchlesh Yadav Both nos 2 and 3 are presently residing at Village- Fatehpur, P.s.- Bahadurpur Fekla O.P., Dist- Darbhanga.

... .. Opposite Parties.

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Prasad, Advocate
For the Respondent/s : Mr.Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-11-2022 Heard learned counsel for the petitioner.

Petitioner is aggrieved by and dissatisfied with the judgment/order dated 29.06.2016 passed in Maintenance Case No. 52/2011 by the learned Principal Judge, Family Court, Darbhanga. By the impugned judgment a sum of Rs. 2500/- has been allowed towards maintenance to the applicant-wife and minor daughter of the petitioner.

Learned counsel for the petitioner submit that the marriage between the applicant-wife and the opposite party is not in dispute. The birth of opposite party no. 3 in this case out of the wedlock between the petitioner and O.P. No. 2 is also not



in dispute. The only plea of the petitioner is that he is ready to keep the applicant-wife and the minor daughter but not to pay the maintenance amount. When this Court called upon learned counsel for the petitioner to say as to whether or not the petitioner is paying any maintenance to his wife and minor daughter, it is stated that the petitioner is not paying any money to his wife and the minor daughter. This Court finds that the case was lodged in the year 2011 and for the last 11 years the applicant-wife and the minor daughter are fighting for the maintenance.

The case of the applicant-wife in the learned court below was that after her marriage with the opposite party – petitioner on 09.05.2008, she was tortured for non-fulfillment of demand of dowry. She was ousted from her matrimonial house with the minor daughter and since then she was residing at her maike. She had no independent source of income whereas the opposite party–husband is a tempo driver and earns Rs. 10,000/- per month. It was claimed that the husband also possessed the landed property and income worth Rs. 50,000/- per year from the said property.

On the other hand, the opposite party, in his show cause submitted that the applicant is a lady of cruel nature and



wants to live in her naihar. He alleged that she had left her sasural and had fled away.

In support of their respective claims both the parties examined themselves and their respective witnesses. The learned Principal Judge, Family Court, Darbhanga has examined the evidence of the parties and found that the applicant is a legally wedded wife of the opposite party, she was subjected to assault and demand of non-fulfillment of the demand of dowry she had been ousted from her matrimonial house. The evidences also show that the opposite party – husband is driving a tempo and he earns Rs. 7000/- to Rs. 12,000/- per month and he has got some landed property also, in such circumstances the learned court has allowed a sum of Rs. 2500/- per month as maintenance for the wife as well as the minor daughter.

In the Revision Application save and except to say that the petitioner is ready to keep his wife and daughter, no other plausible ground has been shown to invite interference of this Court with the impugned order. This Court finds that learned court has discussed the entire materials as noticed hereinabove and has allowed a paltry sum of Rs. 2500/- that too for two persons. The applicant is an able-bodied person and is



engaged in driving Tempo. In such circumstances the observations of the Hon'ble Supreme Court in the case of **Anju Garg and Another Vs. Deepak Kumar Garg reported in 2022 SCC Online SC 1314** particularly those made in paragraph '10' would be attracted in the present case. The relevant paragraph extracted from paragraph '10' of the judgment are being quoted hereunder for a ready reference:-

“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.”

This Court, finds no error in the impugned judgment.

This Revision Application has no merit. It is dismissed, accordingly.

Let the learned Principal Judge, Family Court,



Darbhanga proceed to execute/enforce the impugned judgment as expeditiously as possible. In case it is found that the husband-petitioner has not paid the maintenance amount to his wife and minor daughter so far, the entire arrears together with a cost of Rs. 25,000/- shall be realized from the petitioner and be made available to the applicant-wife and minor daughter as early as possible.

(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'.

