

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.183 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Saharsa

Nandan Mehta Son of Upendra Mehta Resident of Village - Bhelwa, P.S.-
Gamhaiya, District- Madhepura

... .. Petitioner

Versus

1. The State of Bihar
2. Makhiya Devi Wife of Nandan Mehta, D/O- Visheshwar Mehta Present
Resident of Village - Choughara, P.S.- Supaul, District- Supaul
3. Vikash Mehta Minor Son of Nandan Mehta, Under Guardianship of Natural
Gardian as Mother namely Makhiya Devi Present Resident of Village -
Choughara, P.S.- Supaul, District- Supaul

... .. Respondents

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-10-2022 No one appears for the petitioner.

By the impugned order the petitioner being husband of the
applicant-wife – O.P. No.2 and father of O.P. No. 3 has been directed
to pay a sum of Rs. 1000/- only to each of them every month towards
maintenance.

It appears on perusal of the records that the maintenance
case was filed as back as in the year 2011. In the learned court below
the petitioner did not deny the marriage, though he denied the
allegation of demand of dowry and torture against him. He has
stated that the opposite party had earlier filed a false criminal case
and miscellaneous case for maintenance which was disposed of on
compromise. He earns his livelihood by doing physical labour at



Delhi and Punjab. In course of his evidence, however, the petitioner failed to state as to what were the compromise and on what terms. He has admitted to have performed a second marriage at Chandigarh.

Learned Court below has found that there is no material on record showing that there was any settlement between the parties. The petitioner is neglecting his wife and the minor son. Under these circumstances the maintenance has been allowed.

In the revision application again a similar contention has been raised that earlier there was a compromise between the parties but even at this stage the petitioner has miserably failed to place on record any material showing that there was a compromise between the parties. The amount of maintenance is a meagre sum of Rs. 1000/- to the wife and minor son. They are contesting this case for the last 11 years and are living a neglected life. The Hon'ble Supreme Court in the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314** where in paragraph '10' it has been observed 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.”

Considering the entire facts and circumstances of the case and the materials discussed here-in-above, this Court finds no reason to interfere with the impugned judgment/order.

For keeping his wife and minor son engaged in litigation for about 11 years by now, this Court imposes a cost of Rs. 25,000/- upon the petitioner which he would be liable to pay together with the arrears of maintenance and current maintenance to the opposite party.

Let the learned Principal Judge, Family Court, Saharsa execute the impugned judgment as expeditiously as possible.

This application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

