

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.640 of 2017

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

Minhaz Alam @ Minaz, Son of Ibrahim, Resident of Village- Ruitola,
Paharkatta, P.S. Paharkatta, District- Kishanganj.

... .. Petitioner

Versus

1. The State Of Bihar.
2. Amirun Nissa, so called wife of Minhaz Alam @ Minhaz, Resident of
Village-Ruitola, Paharkatta, Purna Basti, P.S.- Paharkatta, District-
Kishanganj.

... .. Respondent

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr. Smt. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-12-2022 No one appears for the petitioner to press this application. By the impugned order the learned Principle Judge, Family Court, Kishanganj has directed the opposite party-petitioner to pay a sum of Rs. 3,000/- per month to the applicant-wife as maintenance since the date of filing of the case.

Considering that it is a case of the year 2017 and it relates to payment of maintenance to a neglected woman, this Court proceeds to consider it on its own merit on the basis of the materials available on the record.

On perusal of the impugned judgment, this Court finds that the Nikah between the applicant-wife and this



petitioner in accordance with Islamic rites and rituals is admitted. The case of the applicant-wife is that she was subjected to cruelties and due to non fulfillment of the demand of Rs. 20,000/- and a motorcycle, the opposite party and his family members stopped her food and clothes. Later on she was thrown out of her matrimonial house after assaulting her. She claimed that she was living a miserable life, has no source of income whereas the opposite party has a monthly income of at least Rs.12,000/- per month.

In the court below the case of the opposite party was that 12 days after the marriage, the opposite party came to know that the applicant had not taken divorce from her first husband where after the opposite party took legal opinion from Kazi of Sariyat and as per advice a statement was made in Panchayat with consent of the applicant-opposite party pronounced 'Triple Talak' on 18.07.2008 and divorced the applicant and paid dower including expenditure of 'Iddat' and since then the applicant-wife is enjoying her separate life.

In the learned court below two witness were examined in support of the applicant. The applicant-wife has supported her case. She has been supported by her witness (AW-2). The husband-opposite party also adduced his evidence where after



the learned principal Judge, Family Court came to a conclusion that the case of the opposite party saying that the applicant-wife had married him without getting divorce from her first husband was not correct. The Court further found that there was no Talaknama of the Talak of the applicant and her first husband but that is not sufficient to draw any inference that the applicant-wife was not divorcee at the time of marriage with the opposite party. The Court, therefore, concluded that the applicant is legally married wife of opposite party and even if it is presumed that the opposite party had divorced her then the applicant is entitled for maintenance because she has not contracted a second marriage with any other person.

On the point of income, after being satisfied that the opposite party has income from different sources, he is owner of tractor and a car and other things, the Court has awarded a sum of Rs. 3,000/- per month only.

To this Court, it appears that the learned Family court has considered all aspects of the matter, discussed the entire materials as noticed above and has awarded a meager sum of Rs. 3,000 which hardly come to Rs. 100/- per day which needs no interference by this Court.

This application is dismissed.

Let the Principal Judge, Family Court, Kishanganj



proceed to enforce the impugned judgment as expeditiously as possible.

(Rajeev Ranjan Prasad, J)

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