

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.184 of 2018

Arising Out of PS. Case No.-7 Year-2016 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Ghajala Khatoon, wife of Md. Shahid and Daughter of Md. Firoz, resident of village-Maida Babhangama, police station-Birpur in the district of Begusarai, present address-At village-Noorpur, police station-Barauni (Refinery) in the district of Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Md. Shahid, son of Abdul Ahad, resident of village-Babhangama, Police Station-Birpur in the district of Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Bimal Kumar, Advocate
For the O.P.No.2	:	Mr.Sandip Kumar Gautam, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

9 02-08-2022 Heard learned counsel for the petitioner and learned counsel for the opposite party no.2.

Petitioner is aggrieved by and dissatisfied with the order dated 31.10.2017 passed by the learned Principal Judge, Family Court, Begusarai whereby and whereunder, after recording that the applicant-wife is not praying for any maintenance and she does not want to live with her husband, rejected the application under Section 125 Cr.P.C.

Learned counsel for the petitioner submits that on perusal of the entire order-sheets of the Maintenance Case No.13(M)/2016 it would appear that several attempts were taken between the parties to amicably resolve the matrimonial dispute.



At one point of time, the compromise was reached and the opposite party gave an undertaking that he will keep his wife and the two children with full dignity and care. Copy of the undertaking is Annexure-6 to the present application. It is submitted that soon after the petitioner and her two daughters were taken to the matrimonial home, her husband brutally assaulted her. In this regard learned counsel has referred the police report dated 11.12.2016 (Annexure-7). Learned counsel submits that in these circumstances the applicant-wife made a statement in the learned court below that she cannot live with her husband but the learned Principal Judge, Family Court wrongly recorded that the applicant does not want to live with her husband and she is not looking for any maintenance.

Learned counsel further submits that the maintenance application was filed not only on behalf of the petitioner but also on behalf of the two minor daughters but the learned court below has not considered the application as a whole and rejected the same which has resulted in complete injustice to the petitioner and her two minor daughters. It is submitted that the applicant-petitioner and her two minor daughters are being neglected despite the fact that the husband-opposite party has got sufficient means and is liable to maintain them in



accordance with law.

Mr. Sandip Kumar Gautam, learned counsel for the opposite party has though opposed this application, but it is not disputed that the petitioner who was applicant in the learned court below refused to live with her husband because of the alleged assault meted out by her husband upon her. In view of Annexure-3 to the present application it is not denied that the application for maintenance was filed not only on behalf of the petitioner but also on behalf of the two minor daughters who were aged about 2 years and three months respectively.

Having regard to the submissions noted hereinabove, taking into consideration the spirit of Section 125 Cr.P.C. and that it is required to be applied to help the neglected women and children, this Court is of the considered opinion that the rejection of the application under Section 125 Cr.P.C. is neither in accordance with law nor in the interest of justice. The order dated 31.10.2017 passed by the learned Principal Judge, Family Court, Begusarai is hereby set aside.

The learned Principal Judge shall proceed to consider the application under Section 125 Cr.P.C. after giving an opportunity to both the parties to submit their cases and evidences in accordance with law. The learned Principal Judge,



Family Court, Begusarai must dispose of the maintenance case within a period of four months from the date of communication of this order. The opposite party shall appear in this case on 22nd of August, 2022.

This application stands disposed of accordingly.

(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'.

