

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1206 of 2017

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

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Jeevan Prakash Soni Das @ Jeevan Prakas Soni Son of Late Lileshwar Das,
Resident of Village- Nichi Chandan, P.S.- Chandan, District- Banka at present
residing at Shiv Puri, Uran Tola, Anishabad, P.S.- Gardanibagh, District-
Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Arti Devi, Daughter of Jageshwar Rabidas, Resident of Village- Asurha O.P.
Ananadpur, Bhairoganj, P.S.- Chandan, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Sinha, Adv.
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner is aggrieved by and dissatisfied with the
order dated 07.11.2017 passed in Miscellaneous Case No.49 of
2015 by which the learned Principal Judge, Family Court,
Banka has allowed a maintenance allowance of Rs.3000/- per
month to the opposite party no.2 who was applicant-wife in the
learned court below.

Learned counsel for the petitioner has assailed the
impugned judgment on two grounds. His first submission is that
the applicant-wife had prior to her marriage with the present
petitioner was kidnapped on 03.11.2013. In this regard her



father had lodged an FIR being Chandan P.S. Case No.80 of 2013. It is alleged that after the marriage with the petitioner in the year 2014 she left her matrimonial home with one Md. Haider, converted herself and adopted *Islam* religion and performed *Nikah* with Md. Haider.

It is his submission that the learned court below has completely erred in rejecting the plea of the petitioner that the opposite party had married to Md. Haider. Reliance in this regard has been placed on the deposition of Md. Haider (Annexure-4).

The second submission of learned counsel for the petitioner is that the petitioner is unemployed, though his mother is in Bihar Police working as a constable and her salary at the relevant time was found about Rs.30,000/- per month.

Learned APP for the State has opposed this application. It is submitted that Md. Haider (D.W.3) seems to be a planted witness by the petitioner who has come forward to depose that the applicant was in love with him and about two years back in the month of January he had taken the applicant to Delhi where the applicant had changed her name and performed *Nikah* with him. Learned APP points out that the applicant was kidnapped on 03.11.2013 and in this regard a police case was



registered in the year 2013 itself, therefore, the statement of D.W.-3 in Annexure-4 that he had taken the applicant about two years back in the month of January, 2015 is a completely false statement and the date had been set up on the date of deposition i.e. 17.11.2016 only to make out a case that the applicant had married to this Md. Haider after her marriage with the present petitioner.

Learned APP points out that the marriage between the petitioner and the opposite party took place in the year 2014 in accordance with the Hindu Rites and Customs whereafter she went to her sasural and lived there for about ten months but she was thrown out of her matrimonial house when her parents were unable to fulfill the demand of Rs.3 lacs in cash and a motorcycle.

Learned APP further submits that the deposition of D.W.-3 cannot be believed even on the principle of the law of prudence. If he claims that he had taken the applicant with him out of love, it cannot be expected from a person of good moral that he will come and depose against that girl. It is submitted that this witness seems to be a person of low morals who in course of trying to help his friend i.e. the petitioner is on the one hand claiming that he was in love with the applicant and had



taken her to Delhi but at the same time he is deposing against her to ruin her life. It is submitted that his statement is not corroborated by any material particulars through independent witnesses, therefore, the learned court below has rightly rejected the evidence on this point.

This Court has heard learned counsel for the petitioner and the State and perused the records. This Court is in agreement with the submission of learned APP for the State that D.W.-3 is not fit to be believed. The kidnapping case was lodged by the father of the applicant-wife on 03.11.2013 whereas this witness has tried to set up a date in the month of January, 2015 just to support the husband-petitioner that his wife had fled away in the year 2015. There is no independent witness on this point.

So far as the quantum of maintenance is concerned, this Court finds that the learned court below has awarded a meagre amount of Rs.3,000/- per month which would be Rs.100/- per day only and to this Court it appears that even an unskilled labourer in these days could earn at least Rs.400/- per day, therefore even without considering the income of his mother, this amount cannot be said to be excessive.

Finding no illegality or infirmity with the impugned



judgment, this revision application is dismissed.

Let the learned court below proceed to enforce the
impugned judgment in accordance with law.

(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'.

