

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.942 of 2016

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

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Shrawan Kumar @ Shrawan Sah @ Shrawan Kr. Sah son of sri Dhaturi Sah
Resident of Village-Harwani, Police Station-Dhaka, District-East Champaran

... .. Petitioner/s

Versus

Sangeeta Devi D/o Jamindar Sah Resident of Village-Shitalpatti, Police
Station-Chiraiya, District-East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 17-11-2022 Heard learned counsel for the petitioner.

Petitioner in this case is aggrieved by and dissatisfied with the order dated 14.07.2016 passed in Maintenance Case No.41 of 2009 by the learned Principal Judge, Family Court, East Champaran at Motihari whereby and whereunder the petitioner has been directed to to pay Rs.3000/- per month to the opposite party for maintenance by 15th day of every succeeding month with effect from July, 2016. The petitioner has been further directed to pay Rs.8000/- to the opposite party towards cost of litigation.

Learned counsel for the petitioner submits that the petitioner works in a garage and he does not have enough income to provide a sum of Rs.3000/- per month to his wife.



The petitioner however does not challenge the fact that he was married to the opposite party and the opposite party is his legally wedded wife.

On perusal of the impugned order, this Court finds that in the learned court below the applicant-wife had examined altogether five witnesses in support of her case whereas this petitioner had examined altogether two witnesses. The learned Principal Judge has considered the evidence adduced on behalf of the parties. The opposite party-petitioner's witnesses have stated that this petitioner works as a labourer in a garage at Kathmandu and he has got one katha of land. The learned Principal Judge has recorded the submissions advanced on behalf of the applicant-wife that her husband performed a second marriage with another lady. The applicant-wife had filed a case under Section 498A IPC against this petitioner.

In the given facts and circumstances of the case, on finding that the petitioner is working in a garage and is able to earn whereas his wife does not have any income and she is said to be a destitute, this Court is not willing to interfere with the impugned judgment.

In the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in 2022 SCC Online SC 1314, the



Hon'ble Supreme Court has observed in paragraph '10' 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.”

The facts of the present case is almost similar and in this case also the petitioner is able to earn by doing physical labour, therefore, he has a legal as well as moral duty to maintain his wife.

This application has thus no merit. It is dismissed.

This Court has been imposing cost in the cases where



the husband has not obeyed the order of the learned court below.
In this case it appears that the maintenance case was filed in the year 2009 and the impugned judgment was passed on 14.07.2016.

Learned counsel for the petitioner is unable to demonstrate that during all these periods the petitioner has paid any amount to his wife towards her maintenance. Let this aspect be looked into by the learned Principal Judge, Family Court, East Champaran at Motihari and in case it is found that the petitioner has not paid maintenance amount to a substantial extent and has neglected his wife for all these periods, the petitioner is liable to pay a cost of Rs.25,000/- in addition to the arrears of maintenance as well as current. The same shall be realized by the learned Principal Judge.

Let the impugned judgment be executed as expeditiously 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'.

