

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.59 of 2016

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

Md. Sajid @ Md. Sajid Alam S/o Md. Moshabeab R/o Vill- Jetaura, P.s
Madhuban, District East Champaran.

... .. Petitioner

Versus

1. The State Of Bihar
2. Saira Khatoon W/o Md. Sajid@Md. Sajid Alam & D/o Md. Nisiruddin At
present resident of Village and P.s Baruraj, District Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar @ S.K., Advocate
For the Respondent/s	:	Mr.Akhileshwar Dayal, A.P.P.
For the O.P. No. 2	:	Mr. Md. Anis Akhtar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 14-11-2022 Heard learned counsel for the petitioner and learned
counsel for the opposite party no. 2 as also for the State.

Petitioner in this case is aggrieved by and dissatisfied
with the judgment dated 09.10.2015 passed by learned Principal
Judge, Family Court, Muzaffarpur in Maintenance Case no. 132
of 2012 .

By the impugned judgment, the learned Principal
Judge, Family Court, Muzaffarpur has been pleased to allow a
maintenance amount of Rs. 3,500/- per month to the applicant-
wife who is opposite party no. 2 in this Court.

On perusal of the impugned order, it appears that the
applicant-wife filed an application under Section 125 Cr.P.C.
alleging that she was married with the present petitioner on



20.06.2010. After her marriage, she came to her Sasural where her husband started demanding the motorcycle and colour T.V. which could not be fulfilled. She was tortured and ousted from the matrimonial house. It is alleged that her clothes and jewelries etc. were also snatched away. She was residing in her Naihar since 17.02.2012. The applicant-wife claimed that she had no independent source of income to maintain herself whereas her husband has got agricultural income and he is working as organ welding from which he is earning Rs. 30,000/- per month. She prayed for awarding of Rs. 6,000/- per month as maintenance.

The husband who was opposite party in the learned court below appeared in this case. He filed his show cause but did not adduce any evidence whereas the applicant-wife presented herself in the witness box, she supported her case and she was supported by three other witnesses.

The impugned judgment would reveal that the learned Principal Judge, Family Court has considered the uncontroverted evidence of the applicant-wife and reached to a conclusion that the husband-petitioner has an income of Rs. 30,000/- per month whereas the applicant-wife had no independent source of income. On the basis of the evidences



available on the record, the learned Judge has been pleased to allow the maintenance as stated above.

Learned counsel for the petitioner has assailed the impugned judgment on the solitary ground that this petitioner belongs to a family below poverty line (BPL). He is not challenging the relationship between the petitioner and the applicant and is only contesting the case on the quantum of maintenance. According to him, it is in excessive side.

On the other hand, learned counsel for the opposite party no. 2 has submitted that the learned court below has not committed any error in awarding a sum of Rs. 3500/- per month. He has placed before this Court the deposition of the applicant-wife and other witnesses who supported her. It is his submission that the applicant has deposed in paragraph '6' that her husband had entered into a second marriage and has neglected the applicant. This statement of the applicant has not been questioned by the husband-petitioner in course of evidence. He has not cross-examined the applicant on the point of income and his engagement as organ welder. It is, thus, submitted that on the face of the unconverted materials, the impugned order does not suffer from any infirmity.

Having heard learned counsel for the petitioner and



the opposite party no. 2 as also taking note of the latest judgment of the Hon'ble Supreme Court in the case of **Anju Garg and Another Vs. Deepak Kumar Garg reported in 2022 SCC Online SC 1314**; this Court is of the considered opinion that a sum of Rs. 3500/- allowed as maintenance to the applicant -wife cannot be said to be excessive. It hardly comes to Rs. 115/- per day which is a paltry sum of money and for any leaving being it would be difficult to sustain even with this amount in her hand. Paragraph '10' of the judgment of the Hon'ble Supreme Court in the case of **Anju Garg (supra)** reads 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.”



In the circumstances stated-above, this Court finds no reason to interfere in this revision application. This application is dismissed.

At this stage, learned counsel for the opposite party no. 2 has informed that in the name of pendency of the revision application, the petitioner has not paid any single farthing to the opposite party no. 2 during all these years and for over a decade the opposite party no. 2 is living neglected life at the mercy of her *Naihar* people. The apathy shown to the opposite party no. 2 by this petitioner, in the opinion of this Court, is liable to be deprecated and for this reason this Court directs the petitioner to pay a cost of Rs. 25,000/- in addition to the entire outstanding amount of maintenance and continue to pay the current maintenance.

The learned Principal Judge, Family Court, Muzaffarpur is directed to recover the entire outstanding amount with cost from the petitioner expeditiously as early 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'.

