

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1049 of 2018**

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

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Ajay Kumar Singh s/o Ram Uchit Singh R/o Village Kutubpur Diara, P.S. - Bidupur, District - Vaishali.

... .. Petitioner

Versus

1. State Of Bihar
2. Puja Kumari W/o Ajay Kumar Singh R/o Kutubpur Diara, P.S. - Bidupur, District - Vaishali, presently residing at C/o Ramashish Singh, Village - Rup-sipur, P.S. - Mahnar, District - Vaishali.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Bishwajeet Singh, Advocate
For the Respondent/s : Mr.Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-09-2022 Heard learned counsel for the petitioner and Mr. Sanjay Kumar, learned APP for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 18.06.2018 passed by learned Principal Judge, Family Court, Vaishali in Maintenance Case No. 71 of 2017. By the impugned order, the learned Principal Judge has allowed the application under Section 125 Cr.P.C. filed on behalf of the applicant – wife and directed the petitioner to pay a sum of Rs.3,000/- per month to her.

Learned counsel for the petitioner has assailed the impugned order on two grounds. It is submitted that the petitioner is ready and willing to keep his wife with him but it is his wife



who is not living with him. Secondly, it is argued that in the learned Court below, the quantum of income of the petitioner has not been assessed while allowing the maintenance of Rs.3,000/- per month. Learned counsel submits that because of these infirmities in the impugned order, it is liable to be set aside.

Mr. Sanjay Kumar, learned APP for the State has opposed the prayer of the petitioner.

This Court has perused the impugned judgment and the materials available on the record. The deposition of the applicant – wife would show that she has alleged demand of dowry against her husband – petitioner.

It is alleged that her husband was demanding a motorcycle and due to non fulfillment of the same, he was indulged in torturing her. There was a panchayati in the house of Mohan Shah, Mukhiya, initially he agreed to keep her but later on refused. Her husband threw her out of her matrimonial home.

On the quantum of the income of her husband, she has stated that her husband is engaged in sale and purchase of onion and food grains and he earns Rs.20,000 - 21,000/- per month. She expressed her desire to live in sasural but alleged that the behaviour of her husband is not good. In her cross-examination,



she has categorically stated that her husband is engaged in sale and purchase of onion and food grains but she cannot tell the income of her husband. She has further stated in her cross-examination that her husband has got two bighas of land.

The applicant has been supported by her father who deposed as PW 2. He denied the suggestion of the opposite party that his son-in-law is not having any income. He denied sending his daughter to the opposite party because the opposite party was brutally assaulting her.

As against the evidence of the applicant – wife, the opposite party has, in his examination in chief, claimed that he is unemployed and has no source of income. In his cross-examination, he denied that he has got an income of Rs.3 lakhs from his business.

OPW-2 is the brother of the opposite party who has stated that in the present days, a labourer earns Rs.300/- per day. OPW-3 has stated that the petitioner is engaged as a labourer. Although at subsequent stage, the opposite party developed the story that the applicant – wife has got income from stitching work and tuition but learned Principal Judge has rightly observed that when the applicant – wife was deposing as a witness, no such suggestion was thrown to her in course of cross-exami-



nation, therefore, this story has been developed at a belated stage but could not be proved.

In the given kind of materials present on the record, this Court finds that the grounds taken by the learned counsel for the petitioner on both counts are liable to fail. The mere assertion of the petitioner that he wants to keep his wife would not inspire any confidence of this Court. There are allegations of torture against him. On the quantum of income, this Court need not go into much detail, suffice is to say that in his cross-examination, the opposite party has though denied the income of Rs.3 lakhs per year from his business but had not stated that he is not engaged in business. Even if the deposition of OPW-2 and 3 are taken that the petitioner works as a labourer and the rate of wages of a labourer would be Rs.300/- per day, this Court is unable to understand why the petitioner would not pay a meager sum of Rs. 3,000/- to his wife which comes to Rs. 100/- per day. By no means, this amount can be said to be excessive.

At this stage, this Court has called upon learned counsel for the petitioner to say as to whether the petitioner is paying any maintenance to his wife, the answer is that the petitioner is not paying anything to his wife.

If it is so, since the petitioner has engaged his wife in



litigation for over five years and till date has not paid any maintenance, this Court deems it just and proper to impose an additional sum of Rs. 25,000/- upon the petitioner as cost which will be payable by him to his wife together with the arrears of maintenance and the current maintenance.

Let the learned Principal Judge, Family Court, Vaishali proceed to execute the impugned order and realize the entire arrears as well as current amount of maintenance together with the cost as expeditiously as possible.

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'.

