

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.865 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Jamui

Md. Nasimuddin, son of Md. Mansoor Alam Resident of Mohalla- Bihat
Noorpur, Near Kabristan, P.S.- Barauni, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar
2. Shahnaz Khatoon @ Shahnaz Praveen D/o Md. Safdar Sah Resident of
Village- Navinagar, P.O.- Majhwe, P.S. And District- Jamui

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Abdul Mannan Khan, Advocate

Mr. Binay Kumar, Advocate

For the Respondent/s : Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-09-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

This Revision Application has been filed against the
order dated 27.03.2019 passed in Maintenance Case (Suit) No.
40M of 2015 passed by learned Principal Judge, Family Court,
Jamui whereby learned Principal Judge has directed the
petitioner to pay Rs. 3000/- per month to the opposite party no.
2 for her maintenance from the date of application.

Learned counsel for the petitioner submits that the
petitioner is ready to keep his wife but his wife is not ready to
live with him. It is further submitted that at the relevant time the
petitioner was a student and had no independent source of
income. These are the two grounds which have been pleaded



before this Court to defend the impugned judgment.

Mr. Anand Mohan Prasad Mehta, learned A.P.P. for the State has drawn the attention of this Court towards the impugned judgment. It is submitted that in this case it is the specific stand of the applicant-wife that she was assaulted in her Sasural due to non-fulfillment of demand of dowry of Rs. 2,50,000/- and in this regard she lodged a criminal case under Sections 498A, 307, 386, 379 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act in the court of learned S.D.J.M., Jamui.

Learned A.P.P. has further drawn the attention of this Court towards paragraph '4' of the impugned judgment in which it is further narrated that the opposite party belongs from a very well to do family. He is a teacher in private school and he is earning a sum of Rs. 13,000/- per month. He was also running a coaching centre from which he was earning Rs. 20,000-22,000/- per month.

Before the learned Principal Judge, Family Court, the opposite party appeared and took a plea that the applicant-wife had lodged the criminal case at the instigation of her parents due to malafide intention. She left the house of the opposite party and refused to come back to restore the conjugal life. He denied



the allegation of demand of dowry. He also denied that he was a teacher in private school and was running a coaching institute.

On going through the impugned judgment, this Court finds that on behalf of the applicant-wife altogether three witnesses were examined. They have deposed that the applicant is the legally wedded wife of the opposite party. The opposite party neglected her and after torturing physically and mentally for dowry he had thrown her out of the matrimonial house. They have further deposed that the applicant has no independent source of income and the opposite party is working as a teacher in a private school. The applicant witnesses no. 1 and 2 both are consistent on this issue. Learned court below has specifically recorded that in her cross-examination nothing substantial could be taken out. On behalf of the opposite party also evidence was adduced by bringing his father as a witness.

Learned counsel for the petitioner admits and it is strengthened from the narrations present in the judgment of the learned court below that this petitioner being opposite party in the court below did not present himself for examination in course of evidence.

Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court finds that



the applicant-wife supported her case by presenting herself as P.W.1. She was supported by two other witnesses whereas this petitioner being husband and the opposite party in the case did not show enough courage to come in the dock to examine himself and face the cross-examination. His father simply took a plea that the opposite party is a student but in support of his plea no evidence at all could be brought on the record. By not presenting himself for examination and cross-examination in the dock, the petitioner has shown that he is not ready to face the questions which are likely to be put to him. On the other hand, the learned court below has found that in the cross-examination of the applicant-wife nothing substantial could be elicited. The learned Principal Judge has awarded a maintenance of Rs. 3000/- per month which hardly comes to Rs. 100/- per day. The petitioner has chosen to challenge this order in this Court and in the name of pendency of this application, if he has not paid the maintenance amount, it would be a serious matter and would further demonstrate his conduct.

No illegality or infirmity could be found with the impugned judgment. This Revision Application is, thus, dismissed with a cost of Rs. 25,000/- (Rupees Twenty Five Thousand only) which will be paid by the petitioner to his wife-



opposite party with the arrears of maintenance and current maintenance. This Court is imposing the cost after finding that the maintenance case was filed in the year 2015 and for the last seven years the petitioner has been neglecting his wife and is not paying her maintenance despite there being a direction of the learned court below and there being no order of stay from this Court. Such conduct is required to be deprecated and discouraged.

Let the learned Principal Judge, Family Court, Jamui proceed to execute the impugned judgment as expeditiously as possible by recovering the entire arrears and current maintenance with the cost as stated here-in-above.

This application is dismissed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

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'.

