

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.960 of 2016

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

Hirnay Pratap Singh @ Hiranya Pratap Singh Deo Son of late Ashok Kumar Singh Deo Resident of village- Rajapakar PS Rajapakar District Vaishali.

... .. Petitioner

Versus

1. The State Of Bihar
2. Suman Kumari Wife of Hiranay Pratap Singh@Hirnay Singh Resident of Village Rajapakar, P.S. Rajapakar, Distt Vaishali at Presently residing at Village Harpur, PS Piya District Muzaffarpur.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-11-2022 No one appears for the petitioner.

Considering that this revision application is pending since 22.09.2016 and at this stage the petitioner is not putting appearance, in the nature of the case which relates to payment of maintenance to a neglected woman, this Court deems it just and proper to dispose of this application on it's own merit.

By the impugned judgment, the learned Principal Judge, Family Court, Vaishali at Hajipur has allowed a maintenance of Rs. 3000/- per month to the applicant-wife. The husband-petitioner was directed to pay the arrears of maintenance in six equal installment.

On perusal of the impugned judgment, it would



appear that the applicant-wife had filed a maintenance case in the year 2009. her case was that after her marriage with the opposite party on 27.06.2004 she was ill-treated by the opposite party and his family members due to non-fulfillment of demand of dowry. She alleged that she was brutally assaulted and forced to leave her matrimonial house. The opposite party had dishonestly deprived the applicant-wife of her ornaments and other articles worth Rs. 3,00,000/-.

The applicant-wife further pleaded that she had no independent source of income. Her father is a farmer and brother is unemployed whereas the opposite party earns Rs. 20,000/- per month and he has also got some landed property from which he earns Rs. 1,50,000/- every year.

On the other hand, the opposite party contended in the learned court below that the applicant is a characterless lady and she is of quarrelsome nature. She used to misbehave with the opposite party and his family members. The opposite party contended that he was not having any job and is a landless person.

It appears that the applicant examined altogether six witnesses in support of her case, whereas the opposite party examined five witnesses. The learned Principal Judge



found that admittedly the applicant and the opposite party are married to each other. It was not in dispute that the applicant-wife was living in her naihar from the year 2007 and her husband-opposite party was not paying any maintenance to her. The learned Family Court found that the parties were unable to live together because of the fear on the part of the applicant-wife. It has further come that the opposite party had solemnized a second marriage with another lady and is living a happy conjugal life with her. The applicant's witnesses have stated that the opposite party has Hat Bazar and he is running business of Generator set for supply of electricity in the market from which he earns Rs. 20,000/- to 25,000/- per month and he has six bighas land from which he gets Rs. 1,50,000/- yearly. All the witnesses have stated that the opposite party assaulted the applicant and ousted her from the matrimonial house.

Learned Principal Judge, Family Court has further discussed the evidence adduced on behalf of the husband-opposite party. He has found that the opposite party witnesses have claimed that the applicant is doing tuition and stitching work but on this point no evidence has been adduced. Learned Principal Judge has further found that the opposite party is able bodied healthy man and doing his work. The opposite party



witnesses have stated that the opposite party has got landed property, generator set and telephone booth but he had to sell the generator set for paying the loan amount in connection with criminal case and now he is unemployed but no evidence was adduced to show that the generator set or land were sold. The learned court has, therefore, arrived to a conclusion that the husband-opposite party has got sufficient means to maintain the applicant-wife. Accordingly, direction has been issued.

Having perused the entire materials available on the record, this Court finds that there is no dispute that the husband-petitioner is an able-bodied person and has been engaged in earning his livelihood through various means. On the other hand, the applicant-wife had no source of income and nothing was brought as evidence to demonstrate that she had any independent income to maintain herself.

In paragraph '10' of the 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**, it has been observed 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.”

Finding that the amount of maintenance awarded to the applicant-wife is a meager sum of Rs. 3000/- per month, which cannot be said to be unreasonable or excessive from the husband-petitioner’s point of view, this Court finds no reason to interfere with the same.

This Revision Application is, thus, dismissed.

Since the maintenance case was lodged in the year 2009 and there is no material to show that the husband-petitioner has obeyed the order and further that he is not represented, this Court deems it just and proper to direct the learned Principal Judge, Family Court, Vaishali at Hajipur to



enforce the impugned judgment/order as expeditiously as possible and in case it is found that the petitioner has not paid the amount in terms of the impugned judgment, the entire outstanding shall be realized together with a cost of Rs. 25,000/- which would be payable to the applicant-wife.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

