

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.54 of 2019

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

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Heera Lal Sahni Shankar Sahni, resident of Village - Ram Nagar Mathlohiyar,
Police Station - Harsidhi, Distt.- East Champaran.

... .. Petitioner/s

Versus

Seema Devi wife of Heera lal Sahni, Daughter of Late Bhikhari Sahni,
resident of Village- Sonbarsa, police Station - Harsidhi, Distt.- East
Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the Respondent/s : Mr. Anang Mohan Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 18-12-2023 Heard learned Advocate for the petitioner as well as

learned APP for the State.

2. The instant Criminal Revision is directed against an

order dated 1st October, 2108, passed by the learned Principal
Judge, Family Court, East Champaran at Motihari in
Maintenance Case No. 351 of 2013.

3. By passing the impugned order, the learned trial
Judge directed the petitioner to pay maintenance at the rate of
Rs. 1500/- per month to the opposite party no.2 towards
maintenance allowance.

4. The said order is under challenge in the instant
revision on the ground that on 25th July, 2009 a village
settlement in presence of local Panchayat was held, in order to



solve the matrimonial dispute between the petitioner and the opposite party. In the said village settlement a panchnama was recorded, which was signed by the parties and other witnesses. In the said panchnama, it was specifically observed that the dispute between the parties could not be settled and the opposite party/husband was directed to pay Rs.1,50,000/- (One Lakh Fifty Thousand) in lump sum, towards the one time maintenance allowance to the petitioner. The said maintenance allowance was paid by the present petitioner/husband to the present opposite party/wife. It is recorded in the panchnama itself.

5. It is further contended by the learned Advocate for the petitioner/husband that the husband in his written objection clearly stated that the opposite party no. 2 did not want to stay with the petitioner due to her questionable character. She was not in the habit of obeying her husband. A village settlement was held between the parties and it was orally held that there was no relationship between opposite party and the petitioner, as husband wife, from the date of such settlement. It is further submitted by the learned Advocate for the petitioner/husband that the trial court did not want to consider the case of the petitioner that upon a village Panchayat, the petitioner already paid Rs.1,50,000/- (One Lakh Fifty Thousand), as there was no



date recorded in the said panchnamd. However, the recital of the panchnama supports the date i.e. 25th July, 2009. Therefore, the learned trial Judge was wrong in refusing the credence evidenciary weight to the said document (Panchnama). It is also contended that the learned trial Judge failed to consider that the parties amicable settled to stay separately and in view of the provision contained in Section 125(4) of the Cr.P.C., if the parties agree to stay separately on mutual consent, the wife is not entitle to gate any maintenance.

6. The learned Advocate appearing on behalf of the opposite party no. 2, on the other hand, drawn my attention that the petitioner prayed for maintenance allowance at the rate of Rs.2,000/- per month. The trial court granted only a sum of Rs.1500/- per month, which is less than minimum, considering the present market value of the ware essentials. The learned Advocate for the opposite party no. 2 also submits that the trial Judge refused to believe amicable separation between the parties. On the other hand, specific evidence of opposite party no. 2, in the trial court, is that she claimed money for her maintenance, but the opposite party and his family members drove her out after assaulting her. She also specifically denied payment of Rs.1,50,000/- (One Lakh Fifty Thousand) by the



petitioner to her in her evidence.

7. Learned Advocate for the opposite party no. 2 also refers to the relevant provision of the impugned order, where the learned trial Judge cited the reason for non-consideration of the impugned panchnama. It is submitted by the learned Advocate for the opposite party that during trial the petitioner failed to produce any witness in support of the execution of panchnama and payment of Rs.1,50,000/- (One Lakh Fifty Thousand) in favour of opposite party no. 2. According to him, there is no reason to interfere with the impugned Judgment and the instant revision should be dismissed *in limine*.

8. Having heard learned Advocate for the petitioner and the opposite party no. 2 and on perusal of the entire materials on record, this Court is of the view that matrimonial relationship between two persons cannot be annulled by an oral settlement to the effect that the husband and wife would be staying separately. The relationship of husband and wife can only be separated by a decree of divorce. None of the parties have filed any suit for divorce or amicable settlement under Section 13B of the Hindu Marriage Act before any Court of Law. Even, assuming that the petitioner paid a sum of Rs.1,50,000/- (One Lakh Fifty Thousand) to the opposite party



no. 2 for her maintenance in the year 2009, such amount is not sufficient to maintain oneself for the entire life. In the instance case the opposite party no. 2 payed for a meager amount of Rs.2,000/- per month. The trial court granted Rs.1500/- per month towards maintenance allowance. There is no documents that the opposite party no. 2 have any independent earning in the written statement itself. The petitioner made an allegation that the opposite party no. 2 is a lady of questionable character. If the wife refuses to live with the petitioner due to such imputation with regard to character and chastity of a lady, this is sufficient for the opposite party to claim maintenance from the petitioner/husband.

9. In view of such discussion and on perusal of the impugned order, I do not find any ground for interfere and accordingly the instant revision is dismissed on contest.

(Bibek Chaudhuri, J)

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