

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1112 of 2017

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

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Amul Prasad S/o Late Ramdhani Mahto, R/o Village- Bara, P.O.- Panditganj,
P.S.- Kadirganj, Distt.- Patna.

... .. Petitioner/s

Versus

Rupam Sinha W/o Amul Prasad D/o Sita Sharma Prasad, R/o Village- Bara,
P.O.- Panditganj, P.S.- Kadirganj, Dist.- Patna, Presently Residing of Mohalla-
Dhaneshwar Ghat, Professor Colony, P.S.- Bihar, P.O.- Biharsharif, District-
Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyamal Prakash
For the Respondent/s : Mr. Sri Shailendra Kumar -1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 22-06-2023 I. A. No. 2451 of 2017 has been filed by the

petitioner, under Section 5 of the Limitation Act, seeking

condonation of delay in preferring the present revision petition

against the order, dated 05.07.2017, passed in Maintenance Case

No. 08M of 2013.

Having considered the reasons assigned in the present

petition seeking condonation of delay and having heard the

learned counsel for the parties, this Court is satisfied that the

petitioner was prevented by sufficient causes from preferring the

revision petition within time.

In view of the above, the delay, in preferring the

revision petition, is hereby condoned.



I. A. No.2451 of 2017 stands allowed.

The present revision application has been filed by the petitioner, who is the husband of the sole Opposite Party, against the order, dated 05.07.2017, passed by learned Principal Judge, Family Court, Nalanda, at Biharsharif, in Maintenance Case No. 08M of 2013, by which the maintenance case filed by the Opposite Part has been allowed and the petitioner-husband has been directed to pay the Opposite Party a sum of Rs. 6,500/- per month for the maintenance of the Opposite Party as well as her son.

The sole Opposite Party claims that the marriage between the Opposite Party-wife and the petitioner-husband was solemnized on 13.05.1995 and out of their wedlock, one male child has born, aged about 15-16 years at the time of filing of the maintenance case. The Opposite Party-wife has claimed that the petitioner-husband is earning Rs. 25,000/- per month from a coaching institute and Rs. 2,00,000/- per annum from agricultural land. The petitioner has solemnized second marriage with another lady, namely, Binni Kumari, and has been residing with her at Hilsa, while the Opposite Party-wife was residing in her matrimonial home along with her old mother-in-law and son. The mother-in-law of the Opposite Party-wife died,



just after two months of filing the maintenance case, on 08.04.2013.

The petitioner-husband controverted the income by filing a petition that he earns only Rs. 20,000/- per annum from his three bighas of land and he is neither a teacher nor providing any tuition to the student, but is a labour; whereas, the Opposite Party-wife is a school teacher and also stitches the clothes and from both the professions, she earns Rs. 5,000/-. It has further been contended that the Opposite Party-wife, after sometime of the marriage, renounced the worldly life and joined religious groups for attainment of salvation and the age of the son of the Opposite Party-wife is 18 years and right from the beginning, the petitioner-husband has borne the burden of education of his son and, now, his son has become major and is not entitled for maintenance.

Learned Counsel for the petitioner submits that the learned Family Court has erred in not appreciating that the petitioner is not earning sufficient amount in order to maintain his wife and further he is not having 05 bighas of land, as claimed by the Opposite Party-wife and he earns only a sum of Rs. 2,000/- per month from the agricultural land, as claimed by the Opposite Party-wife.



I have heard learned Counsel for the parties concerned and have gone through the materials available on record, including the impugned order.

It is an admitted position that both the parties are husband and wife and the marriage of the petitioner was solemnized with the Opposite Party on 13.05.1995 and out of their wedlock, one male child was born.

Before the learned Family Court, both the sides have adduced evidence and from the side of the Opposite Party-wife, three witnesses were examined, including the Opposite Party-wife herself and her son, Sunny Kumar, and from the side of the petitioner-husband, two witnesses were examined, including the petitioner-husband himself.

It is also the case of the petitioner-husband that the Opposite Party-wife has renounced the world since 1998 and in support of his claim, he has produced an affidavit, duly sworn by Opposite Party-wife herself (Annexure-3).

If the case of the petitioner-husband is accepted that the Opposite Party-wife has renounced the world since 1998 itself, then the claim of the petitioner-husband that Opposite Party-wife earns Rs. 5,000/- per month from her profession of teaching in a school and stitching clothes, cannot be accepted



inasmuch as both are contradictory. However, in her deposition before the learned Family Court, the Opposite Party-wife has stated that at the time of filing of the maintenance application, her son was minor, aged about 16-17 years. On the date of recording of her deposition, the Opposite Party-wife has also stated that the petitioner-husband is running a coaching institute and imparting education at the level of I.A./B.A. She has denied that she is not associated with religious organization, namely, Brahma Kumaris.

The son of the Opposite Party-wife was also examined by the learned Family Court and he has stated that his father/petitioner-husband was having relation with another lady, namely, Binni Kumari, with whom he has been residing for the last fifteen years. He further deposed that the petitioner owns five bighas of agricultural land and has been running a coaching institute, in the name and style of 'Concept of Chemistry'. He also deposed that his mother/ Opposite Party is not associated with religious organization, namely, Brahma Kumaris and the fees of Class-IX was given by the petitioner, but since then, the petitioner has not paid any amount towards his educational expenses.

The learned Family Court, on the basis of the evidence



adduced by both the parties, has come to the conclusion that the contentions of the Opposite Party-wife that the petitioner-husband is living with his second wife is correct and due to this reason, the petitioner-husband is not giving maintenance to the Opposite Party-wife and her son. Further, the learned Family Court has come to the conclusion that after cross-examination of the Opposite Party-wife and her son, no such material has come to disbelieve their evidence. Accordingly, the learned Family Court held that the Opposite Party-wife is not in a position to maintain herself and her son and the petitioner-husband has failed to maintain the Opposite Party-wife and her son, due to the second marriage having been performed by the petitioner and accordingly, awarded a sum of Rs. 6,500/- for the maintenance of Opposite Party-wife and her son.

In the case of **Chaturbhuji v. Sita Bai**, reported in **(2008) 2 SCC 316**, the Supreme Court has 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.

In view of the above discussion, I come to the conclusion that the impugned order of maintenance does not



suffer from any material illegality or legal infirmity and as such,
does not require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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