

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.240 of 2017

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

Sanjay Kumar @ Sunny, son of Shankar Sah, Resident of Village-Pataura,
P.S.-Motihari Muffasil, District-East Champaran.

... .. Petitioner

Versus

1. Sudha Raj, wife of Sanjay Kumar @ Sunny, Daughter of Late Raghubir Sah, Resident of Mohalla-Azad Nagar, P.S.-Motihari Town, District-West Champaran.

2. Ayush Raj, son of Sanjay Kumar @ Sunny through guardianship of his mother Sudha Raj (O.P. No. 1), Resident of Mohalla-Azad Nagar, P.S.-Motihari Town, District-West Champaran.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Hemant Ray, Advocate
For the Opposite Parties	:	Mr. Madhurendra Kumar, Advocate Mr. Sanjiv Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 02-12-2023 Heard learned counsel for the petitioner and learned
counsel for the opposite parties.

2. Petitioner in this case is seeking setting aside the order dated 11.01.2017 passed by learned Principal Judge, Family Court, East Champaran, Motihari in Maintenance Case No. 217 of 2022 under Section 125 Cr.P.C. By the impugned order, the learned Family Court has been pleased to direct the petitioner to pay Rs. 5,000/- per month to the Opposite Party No.1 for maintenance of herself and her son by 15th day of every month with effect from the date of filing of the application i.e. 16.07.2012.

3. It appears on perusal of the impugned order that the

relationship between the parties is admitted. O.P. No. 1 is the wife of the petitioner and O.P. No. 2 is the minor son who moved an application under Section 125 Cr.P.C. in the court of learned Principal Judge, Family Court, East Champaran giving rise to Maintenance Case No. 217 of 2012. According to the applicants-opposite parties, the present petitioner performed a second marriage and neglected the opposite parties. He refused to maintain them. The petitioner has a shop of jewellery in Bangali Colony, Chhatauni. He has also got a shop of meat corner and has 10-11 kathas of land. The applicants-opposite parties claimed that the present petitioner was earning not less than Rs.65,000/- per month, hence, they prayed for a maintenance of Rs.20,000/- per month.

4. In the Family Court, the petitioner admitted the marriage with the O.P. No. 1 but denied the other allegations. He claimed that with the consent of O.P. No. 1, a divorce was prepared on stamp paper and he paid Rs.5 lakhs to the applicant no. 1-O.P. No. 1 for her permanent maintenance. He admitted to have performed a second marriage but denied ownership of any jewellery shop. He claimed that he is a worker in the jewellery shop of his maternal uncle.

5. Both the parties examined their respective

witnesses. The petitioner produced a photocopy of *Talakhanama* which was prepared on a non-judicial stamp paper (Exhibit 'A'), the plaint of the divorce case (Exhibit 'C') and the photocopy of the deposition of the witnesses (Exhibit 'D')

6. Learned Principal Judge, Family Court has considered the evidences brought on the record. Learned court noticed the case of the applicants-opposite parties wherein the applicant no. 1-O.P. No. 1 claimed that she had not prepared *Talakhnama* and her husband had obtained her signature by applying force. The petitioner who deposed as PW-1 himself stated in paragraph '5' of the cross-examination that he had not obtained decree of divorce from a competent court of law and further in paragraph '7', he has stated that he had no documentary proof to show payment of money to his wife. No witness of alleged *Talakhnama* came to the court to support the version of the petitioner.

7. After discussing the entire evidences on the record, the learned Principal Judge has recorded a finding that the plea taken by the present petitioner had no merit and the applicants-opposite parties were entitled for maintenance. On the quantum of income also, learned Principal Judge has recorded that the

petitioner is living a luxurious life with his second wife but he is neglecting his first wife and her two children who are on road.

8. Learned court has allowed a maintenance amount of Rs.5,000/- per month i.e. Rs.3,000/- for the wife and Rs.1,000/- for each of the children. The maintenance is required to be paid from the date of filing of the case i.e. 16.07.2012. The petitioner was also directed to pay a lumpsum amount of Rs.6,000/- towards cost of litigation.

9. Having regard to the materials available on the record, the detailed discussions of the evidences which are available in the impugned judgment/order of the learned Principal Judge, Family Court, East Champaran and the meagre amount of Rs.5,000/- per month which has been awarded for the wife and two children, this Court finds no reason to interfere with the quantum of maintenance.

10. This revision application has no merit. It is dismissed accordingly. The petitioner shall continue to pay the maintenance amount, failing which it will be realised through the process of court in accordance with law.

(Rajeev Ranjan Prasad, J)

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