

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.413 of 2017**

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

Hari Narayan Kumar son of Amiri Lal Sah Resident of village - Dumarbana,  
P.S. Bairgania, District - Sitamarhi.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Khusbu Kumari wife of Hari Narayan Kumar Resident of village -  
Dumarbana, P.S. Bairgania, District - Sitamarhi.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                 |
|----------------------|---|-----------------------------------------------------------------|
| For the Petitioner/s | : | Mr. A.B. Ojha, Sr. Advocate<br>Mr. Pushpendra Kumar Singh, Adv. |
| For the Respondent/s | : | Mr. Anil Prasad Singh, APP                                      |

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA  
CAV ORDER/ JUDGMENT**

**23-08-2023**

The present revision application has been filed against final judgment and order dated 24.09.2016 passed in Miscellaneous Case No. 04 of 2012 by the learned Principal Judge, Family Court Sitamarhi whereby the petitioner has been directed to pay a sum of Rs. 5,500/- per month to Opposite Party No.2 (wife) from the date of filing of maintenance petition dated 11.01.2012 and further directed that the arrears amount shall be paid in three months in three installments.

2. The factual background of the case is that the marriage of the petitioner was solemnized with OP No.2 on 02.02.2006 under the Hindu Rites. From their wedlock, three daughters and one son were born and at present one daughter and one son are living with the petitioner while two daughters



are residing with the Opposite Party No.2 (wife).

3. OP. No. 2 filed a maintenance case before the Family Court, Sitamarhi stating therein that after marriage, the petitioner looked after her properly but subsequently, started demanding money from her parents and due to non fulfillment of the demand, OP No. 2 subjected to torture. The situation got worsen in the year 2010 when the OP No.2 was tortured physically, mentally and forcibly ousted from her matrimonial house due to non fulfillment of demand of money.

4. Being helpless, she lodged an FIR bearing Bairgania PS Case No. 82/2010 under Sections 498A IPC and Section 3/4 of the D.P. Act and in the said criminal case, the petitioner filed an anticipatory bail application and undertook to keep OP No.2/wife with dignity and honour but again after some time, she was ousted from her house and was left to starve. Thereafter, the Maintenance Case under Section 125 CrPC was filed by the OP No.2 bearing Miscellaneous Case No. 04/2012 wherein the Principal Judge, Family Court passed an order of interim maintenance on 30.10.2013 directing the petitioner to pay a sum of Rs. 5000/- per month to the Opposite Party No.2 but not even a single penny has been paid by the petitioner uptill now.



5. The case of the petitioner is that the marriage of the petitioner with OP No. 2 was performed without any dowry and the mother of OP No.2 is a lady of questionable character and she is in the habit of lodging case against innocent person only to harass them. The petitioner started business of ready made clothes after taking loan from the bank but due to bad luck, the said business did not run properly and in the meantime, the petitioner met with an accident in the year 2013 in which his legs and ribs got fractured. Due to failure of the business, the petitioner could not pay the loan which he had taken from State Bank of India for which notice dated 31.01.2013 was issued by the Bank demanding principal amount of Rs. 1,91,248/-. The petitioner was hardly earning Rs. 3000/- per month and after accident, he is not earning even a single penny and is fully dependent upon his father who is having only 06 Bighas of agricultural land.

6. Learned senior counsel appearing for the petitioner argued that the petitioner is ready to keep the OP No.2 with full honour and dignity and the present dispute has arisen due to intervention of his mother-in-law who is a lady of questionable character. He further submits that the petitioner is unable to pay the maintenance amount inasmuch as he is dependent upon his



father. OP No.2 is residing in a room situated on the upper floor of the house of petitioner. It is also stated that she is running a beauty parlour.

7. On the other hand, learned counsel appearing for OP No.2 submits that petitioner was earning sum of Rs. 10,000/- per month from ready made clothes business, he is also involved in other business activity and owns a brick kiln. He is also a civil contractor from where he earns a sum of Rs. 100000/- (One Lac) per month.

8. Though, the order of interim maintenance was passed in the year 2013 but not even a single penny has been paid by the petitioner to OP No.2. Admittedly, OP No.2 is looking after two children who have been residing with her. OP No.2 was living at her parental house but after intervention of police officer of Mahila Police Station, OP No.2 has been given a shared room in her matrimonial home. The petitioner and his father are wealthy persons having businesses, big chunk of agricultural land and also having political inclination and had won election of local self government. He denied that OP No. 2 has been running beauty parlour and does not have any source of income.

9. I have learned counsel for the parties and perused



the impugned order.

10. From the side of OP No. 2 three witnesses have been examined and from the side of petitioner five witnesses have been examined. No documentary evidence was produced by both the parties. OP No.2 was examined as AW-3 who in her deposition has stated that from ready made clothes business, the petitioner was earning Rs. 10,000/- per month and petitioner is also engaged in running brick kiln and is also a civil contractor. She has stated that she was being subjected to assault and torture and is unable to maintain herself and her children and was living at her parents' home. Other witnesses examined on behalf of the petitioner have stated that OP No.2 runs a beauty parlour and the petitioner is not doing any job and he is dependent upon his father.

11. On the submission of learned senior counsel for the petitioner that petitioner is ready to keep his wife and she is residing with the petitioner and he has been taking care of the needs of OP No.2 and her children, this Court *vide* order dated 13.07.2023 directed both the parties to appear in person before it for amicable settlement and fixed the matter on 20<sup>th</sup> July, 2023 for appearance of the parties. On 20.07.2023, both the parties appeared and the case was fixed on 21.07.2023 in Chambers at



4:00. Both the parties were present in the Chambers on 21.07.2023 and arguments were again heard by this Court. After talking to both the parties, the Court tried to settle the matter amicably but failed in its endeavour as both the parties were making allegations and counter allegations.

12. The contention of OP No.2 was that earlier also with the intervention of well wishers, they were made to stay together but all she had to face the cruelty and harassment at the hands of her husband and his family members.

13. The learned Family Court after appreciation of evidence produced by both the parties has directed the petitioner to pay Rs. 5,500/- by tenth day of every month as final maintenance. Two girl children have been living with OP No.2 and were present in the Chambers also on 21.07.2023. On query, they informed the Court that they have been studying in the school and due to non payment of fees the school was not allowing them to take their examination.

14. The Hon'ble Supreme Court in the case of **Anju Garg & Anr v. Deepak Kumar Garg** reported in **2022 SCC Online 1313** has held that *it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children and 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.*

15. In the case of **Chaturbhuj v. Sita Bai** reported in **(2008) 2 SCC**, the Hon’ble Apex 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.*

16. In view of the aforesaid discussions, I come to the conclusion that the order impugned dated 24.09.2016 passed in Miscellaneous Case No. 04/2012 by the learned Principal Judge, Family Court Sitamarhi, does not require any interference under the revisional jurisdiction of this Court.

17. Accordingly, the present revision petition stands dismissed.

**(Anil Kumar Sinha, J)**

Md. Perwez Alam

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