

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.269 of 2017

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

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Shekh Nurzan Son of Ali Akhtar, Resident of village - Garhwa, Police Station
Majhauiliya, District - West Champaran

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Raushan Ara, Daughter of Quamrul Hasan @ Khairati, Resident of village -
Garhwa, Police Station Majhauiliya, District - West Champaran, Presently
Residing at Bathna, Police Station - Majhauiliya, District - West Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No.-7, Advocate
For the Respondent/s : Mr.Smt Sangeeta Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

3 10-02-2023 None appeared on behalf of the petitioner.

2. The present criminal revision is being filed against the order dated 05.01.2017 passed by learned Principal Judge, Family Court, Bettiah, West Champaran in Maintenance Case No. 137 of 2006, whereby and whereunder the petitioner is directed to pay Rs. 3000/- per month to the opposite party no. 2 and Rs. 1000/- to his minor son till attaining the age of his majority as maintenance amount with effect from the date of filing of the maintenance case i.e. on 23.10.2006.

3. None appeared on behalf of the petitioner on



01.02.2023, when the matter was taken on board for the first time, after filing in year 2017 and thereafter, this matter was again taken on board today, where none appeared on behalf of the petitioner.

4. The court is having of two options, either to dismiss this case in default giving a space to petitioner to seek restoration of case and again to keep this litigation alive, where opposite party is struggling for her maintenance, the 2nd option as available to this Court is to go through the records of the case and to take an appropriate view on the basis of materials available on the records and legal provisions as applicable to the given set of facts and circumstances.

5. The court, after considering both as discussed above choosed, the 2nd option by taking note of ultimate object of law as to save the opposite party from the hand of destitution, as therefore perused the records of the case to take an appropriate view on the basis of materials available on the records and legal provisions as applicable to the given set of facts and circumstances, for just and equitable decision.

6. It appears from perusal of impugned order that opposite party no. 2 is a legally wedded wife of the petitioner, which is admitted by the petitioner during the course of trial, the



only plea for non-maintenance was that opposite party was divorced by this petitioner, who solemnized their marriage, as per muslim rituals and in furtherance thereof, after divorce “Iddat and Den Mohar” are duly paid to the opposite party, remaining no liabilities.

7. It appears that petitioner solemnized his second marriage. It also appears from the impugned order that the separate divorce case was filed by the petitioner, which was dismissed on 05.01.2017, on the same very day, the impugned order was passed.

8. Considering in totality as above, and by taking note of the settled proposition of law and prime object, as laid down through section 125 of the Cr.P.C., as to save the opposite party from the hand of destitution, it cannot be refused merely on the ground that ‘Iddat and Den Mohar’ is paid. It further appears that the divorce case was already dismissed by the Court of law, the amount which is allowed as a maintenance to opposite party is also appearing very meager amount and as such in the circumstances, discussed above, this Court find no reason to interfere, thereof.

9. The learned Family Court, Bettiah is directed to take all appropriate steps within the frame of law to recover all



the arrears amount in terms of impugned order from petitioner/revisionist, at the earliest and to to make it available to the opposite party within eight weeks of this order.

10. Accordingly, the present criminal revision petition stands dismissed at admission stage, itself.

(Chandra Shekhar Jha, J)

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