

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1198 of 2017

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

=====

Raj Kumar Pandit S/o Umesh Pandit, R/o Village- Rajokhar, P.S.- Raniganj,
District- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Menka Devi W/o Raj Kumar Pandit D/o Sadanand Pandit, R/o Village-
Urlaha, P.S. Palasi, District- Araria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh

For the Respondent/s : Mr.Sri Arun Kumar Pandey

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 23-06-2023

I.A. No. 2761 of 2017

The I.A. No. 2761 of 2017 has been filed for the
condonation of delay of 48 days, which occurred in filing this
Criminal Revision.

For the reasons stated in the limitation application, the
same is allowed.

The delay in filing the instant Criminal Revision is
condoned.

Cr. Revision No. 1198 of 2017

The present Criminal Revision is directed against the
judgment and order dated: 14/07/2017 passed by learned Princi-
pal Judge, Family Court, Araria in Maintenance Case No. 97 of



2016, Trial No. 97 / 2016 by which the maintenance case filed by the Opposite Party No. 2 has been allowed and the petitioner-husband has been directed to pay the Opposite Party No. 2 a sum of Rs. 6,000/- per month as maintenance.

The marriage of the petitioner was solemnized with the Opposite Party No. 2 on 12-05-2013 according to Hindu rites. After some time the petitioner came in touch with another lady, which was protested and the Opposite Party No. 2 also made a complaint to her in-laws then the petitioner and his family members started demanding Rs. 1 Lakh and a motorcycle as dowry from her parents and due to non fulfillment of the demand, the Opposite Party No. 2 was being tortured physically and mentally in her matrimonial home. Ultimately, on 18-04-2015 she was ousted from her matrimonial home. The Opposite Party No. 2 got her shelter in her parental home and filed Complaint Case No. 926C of 2015 in the court of learned CJM, Araria against the petitioner under Section 498(A) & 384 of the IPC and Section 3 / 4 of the Dowry Prohibition Act, however, the complaint case was compromised on 11-01-2006 and after compromise the petitioner fled away from the court campus leaving the Opposite Party No. 2 alone.

The Opposite Party No. 2 has claimed that petitioner



has 10-15 Bigha of land and is a carpenter and he is also having furniture business from which he earns about Rs. 30,000/- per month. The Opposite Party No. 2 has claimed that petitioner contracted second marriage and she is not having any independent income whereas the petitioner has income from agricultural land and other sources. The petitioner has neglected and refused to maintain the Opposite Party No. 2. Both the parties examined three witnesses before the learned Family Court.

Learned counsel for the petitioner submits that Opposite Party No. 2 (wife) left the matrimonial home on her own accord on 18-03-2013. The petitioner is willing to keep her and has also filed Matrimonial Suit under Section 9 of the Hindu Marriage Act bearing Case No. 02 of 2015 on 08.01.2015. The petitioner is a landless person and is a daily wage labourer.

I have heard learned counsel for the petitioner and perused the impugned order. From bare perusal of the impugned order it appears that Opposite Party Witness No.-2 produced by the petitioner, i.e. father of the petitioner in his cross examination has accepted that the petitioner has contracted second marriage and in presence of second wife the Opposite Party No. 2 has proper reason to live away from the petitioner. Learned Family Court after appreciation of the evidence has come to the



conclusion that the petitioner and her witnesses have supported the case about demand of dowry and ouster of Opposite Party No. 2 from the matrimonial home. The deposition of Opposite Party No. 2 remained intact in the cross examination . On the point of income of the petitioner the evidence is oral and speculative. The Opposite Party No. 2 and other witnesses have stated about the agricultural land and also that petitioner is a carpenter and his income is Rs. 30,000/- per month but it is settled law that an able body person has legal obligation to keep and maintain the legally wedded wife and there is no escape from that. The petitioner has contracted second marriage. Accordingly the Opposite Party No. 2 is entitled for maintenance and awarded Rs. 6000/- per month.

The Supreme Court in the case of Anju Garg and Another v. Deek Kumar Garg, reported in 2022 SCC ONLINE 1314 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.

In the case of Chaturbhuj 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 aforesaid discussion, I am of the opinion that the learned Family Court has not committed any jurisdictional error and / or material irregularity in awarding maintenance filed by Opposite Party No. 2. Accordingly, the impugned order does not require any interference by this court.

The application stands dismissed.

(Anil Kumar Sinha, J)

praful/-AFR

U		T	
---	--	---	--

