

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.212 of 2017

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

=====

Wakil Ram, Son of Late Manohar Ram, Resident of Village Sidhwal, P.S. Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.

2. Geyanti Devi, wife of Wakil Ram, Daughter of Jawahar Ram, Resident of Village- Domahan, P.S. Hathua, District- Gopalganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Sir Pawan Kumar Chaurasiya, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 30-01-2023

From the perusal of record, it appears that when this case was came to board, on 20.04.2017, petitioner was not represented and thereafter, on 30.08.2017, a learned co-ordinate Bench of this Court has given two weeks' time to remove the defects but, the same was also not removed within the stipulated period. Subsequently, the matter came on board on 17.01.2023, but none appeared on behalf of petitioner. This case was filed in the year 2017.

2. This matter was again listed today but none appeared on behalf of petitioner.

3. The petitioner is aggrieved and dissatisfied by or-



der and judgment dated 30.11.2016 passed in Maintenance Case No. (CIS) 284/2013, Old Case No. 304/2010 by the learned Principal Judge, Family Court, Gopalganj, whereby the learned Family Judge has allowed maintenance allowance of Rs. 2000/- to the opposite party no. 2 and Rs. 1500/- for minor son of opposite party no. 2, namely, Santosh Kumar.

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 litigations 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. The case of opposite party no. 2, namely, Geyanti



Devi before Learned Family Court was that she is the legally wedded wife of petitioner and out of said wedlock, she given birth to a son and a daughter but for one or another reasons, she was subjected to torture and deserted by the petitioner and finally petitioner solemnized his 2nd marriage during her life time without dissolving marriage with her following due process of law. It is also stated thereof that petitioner is working in Railway earning Rs. 25000/- per month, having additional income from agricultural activities which is about Rs. 2 lacs per annum.

7. Petitioner before the Learned Family Court examined himself as OPW 1, where he admitted his 2nd marriage during the life time of opposite party no. 2, for the reason that she failed to give birth of any child till 10 years. It is also appears from the depositions that he is not a regular employee of the Railway and he worked as a contractual employee, having earning of Rs. 8000/- per month only.

8. In the above facts and circumstances, as 2nd marriage is admitted by petitioner during the life time of opposite party no. 2 without getting their marriage dissolved under due process of law, alone sufficient to suggest, acceptance of allegation alleged by the opposite party no. 2.

9. During trial, it appears that the claim of opposite



party to give birth of a son and daughter out of present marriage is appearing genuine, where daughter now appeared married.

10. In view of abovementioned facts and circumstances, as Rs. 8000/-per month is an admitted income for allowing a meager amount of Rs. 2000/- to opposite party no. 1 as monthly maintenance and Rs. 1500/- for her minor son, namely, Santosh Kumar, this Court finds no reason to interfere, in view of the fact, as discussed above.

11. With the circumstances, this Court directs the Principal Judge, Family Court, Gopalganj, to recover the entire arrears of maintenance in terms of impugned order with a cost of Rs. 30,000/- from the petitioner by taking all such actions which are permissible under law expeditiously and ensure that the amount so recovered be made available to the opposite party, as early as possible, preferably within eight weeks of this order.

12. Accordingly, this application stands disposed of.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	03.02.2023
Transmission Date	

