

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1012 of 2017

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

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Jai Prakash Narain S/o Narendra Narain Singh, R/o Village- Ajmatplur, P.S.-
Rajapakar, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sanjivani Kumari W/o Jai Prakash Narain, R/o Village- Ajmatplur, P.S.-
Rajapakar, District- Vaishali. at Hajipur, At present R/o Village and P.O.
Chandralaya, P.S.- Hajipur Sadar, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mahesh Prasad
For the Respondent/s : Smt. Anita Kumari

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 22-06-2023 The present revision application has been filed by the

petitioner, who is the husband of Opposite Party No. 2, against

the order, dated 29.07.2017, passed by learned Principal Judge,

Family Court, Vaishali, at Hajipur, in Maintenance Case No. 72

of 2015, 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.

5,000/- per month minus Rs. 1,500/-, i.e. Rs. 3,500/- per month

as maintenance.

The Opposite Party No. 2 is the legally wedded wife

of the petitioner-husband and marriage between them was

solemnized on 28.06.2009 according to Hindu rites and rituals.



Out of their wedlock, one child has born and both, the mother and the child, are residing in the parental home of the Opposite Party No. 2.

The marriage between the petitioner and the Opposite Party No. 2 is not in dispute. A complaint case, under Section 498-A of the Indian Penal Code and Sections 3/4 of the Dowry prohibition Act, bearing Complaint Case No. 4163 of 2013, was filed by the Opposite Party No. 2-wife, which is pending before the Court of learned Sub Divisional Judicial Magistrate, Vaishali, at Hajipur. The Opposite Party No. 2-wife has also filed a maintenance case, under Section 125 of the Code of Criminal Procedure, in which the final order has been passed by the learned Principal Judge, Family Court, Vaishali, at Hajipur, which is impugned in the present revision application.

Learned Counsel for the petitioner submits that the Opposite Party No. 2-wife left her matrimonial home on her own will; whereas the petitioner has been willing and ready to keep her wife with full honour and dignity. The petitioner is unemployed at present and as such is having no source of income and is unable to maintain his wife. Earlier, the petitioner was working at Khadi Gramodyog, Hajipur, but now, he has left the job due to involvement in the case under Section 498-A of



the Indian Penal Code and other case.

I have heard learned Counsel for the petitioner and have gone through the materials available on record, including the impugned order.

The learned Family Court has framed an issue as to whether the Opposite Party No. 2-wife (petitioner before the learned Family Court) is unable to maintain herself and the petitioner-husband (sole Opposite Party before the learned Family Court), having sufficient means, is neglecting in her maintenance. The Opposite Party No. 2-wife examined four witnesses on the point of lodging of the case under Section 498-A of the Indian Penal Code and the income of the petitioner-husband from service and horticulture and agriculture business. It has also been stated that the Opposite Party No. 2-wife is having a minor son, aged about 7 years, and has been residing in her parental home (maika) since 2013. PW 3 has also stated that the petitioner-husband is having five bighas of land and earns Rs. 3-4 lakhs per annum from horticulture and agriculture.

The learned Family Court has arrived at the conclusion, based upon the materials available on the record, that the Opposite Party No. 2-wife is not having any source of income and also that she is living in her parental home (maika).



The learned Family Court has also taken into consideration Exhibit-1, which is a Panchnama, duly signed by the petitioner-husband and his family members, which says that on protest of illicit relationship of the petitioner-husband with his sister-in-law (bhabhi), the Opposite Party No. 2-wife was assaulted and she sustained injury.

On the basis of oral as well as documentary evidence, the learned Family Court arrived at the conclusion that the Opposite Party No. 2-wife has been living in her parental home (maika) since 2013, which is evident from the Panchnama (Exhibit-1) itself. The petitioner-husband himself has stated that the Opposite Party No. 2-wife is not working in any school as teacher and has admitted that he was in service in Khadi Gramodyog, but, at present, he is unemployed due to his involvement in this case. However, the learned Family Court has disbelieved his averments as not acceptable that he has left his job due to his involvement in this case.

From the facts discussed herein above and the findings arrived at by the learned Family Court, it transpires that the case, under Section 498-A of the Indian Penal Code, is still pending between the parties and the relationship between them is not cordial, as such, it cannot be said that the Opposite Party



No. 2-wife is residing in her parental home (maika) without any sufficient reason.

The Supreme Court, in the case of **Anju Garg and Another v. Deepak 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 also 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.

It is an admitted position that a sum of s. 41,500/- has been paid to the Opposite Party No. 2-wife pursuant to the direction of this Court in Criminal Misc. No. 29796 of 2015 as condition for grant of anticipatory bail to the petitioner.

Accordingly, I come to the conclusion that the impugned order of maintenance does not suffer from any material illegality or legal infirmity and as such, does not



require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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