

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1398 of 2018

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

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Jitendra Kumar Jha @ Jitendra Jha s/o late Achhutanand Jha, Resident of
Village Bhandar, P.O.+P.S.-Dhaka, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Archana Devi, D/o late Cheddi Thakur, R/o Village+P.O. Bishanpur Taiyab,
P.S. Katara, Tehsil Jajuar, District Muzaffarpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vinay Mistry, Advocate Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Parmeshwar Mehta, Advocate Smt. Divya Bharti, Advocate
For the Informant	:	Mr. N.K. Agrawal, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 13-12-2023 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State as well as learned

senior advocate for the Informant.

2. An order dated 29.10.2018 in Maintenance Case
No.102 of 2014 passed by the Principal Judge, Family Court at
Motihari, East Champaran granting maintenance allowance at
the rate of Rs.8,000/- (Eight Thousand only) per month in
favour of the opposite party no.2 is assailed by the present
petitioner/husband on the ground that marriage of the petitioner
with the opposite party no.2 was solemnized on 04.03.2009.
After few days of marriage, she left her matrimonial home. The
petitioner/husband of the opposite party no.2 works in Indian
Army. The opposite party no.2, informed the higher official of



the petitioner that she was refused and neglected to be maintained by the petitioner. Therefore, as per order of the Superior Officer of the Armed Forces, the petitioner was directed to pay Rs.3,000/- per month to the opposite party no.2 as maintenance. Subsequently, in Maintenance Case No.102 of 2014, the learned Trial Judge directed the petitioner to pay Rs.8,000/- per month towards maintenance allowance to the opposite party no.2.

3. It is further submitted by the learned advocate for the petitioner that the opposite party no.2 on her own accord and violation left her matrimonial home. The petitioner was always ready and willing to live with the opposite party no.2 for such purpose a reconciliation process was under taken by the learned Trial Judge but reconciliation failed due to the reason that the petitioner did not want to returned her matrimonial home.

4. Learned advocate for the petitioner further submits that the learned Trial Judge failed to consider that the petitioner earns Rs.36,000/- per month from his salary and he pays monthly installment towards loan at the rate of Rs.19,000/- per month. Therefore, the learned Trial Judge acted illegally and with material irregularity to hold that the petitioner is obliged to pay Rs.8,000/- per months towards maintenance allowance.



Therefore, it is submitted by the learned advocate for the petitioner that the impugned order is wrong and based beyond the materials on record. Therefore, it is liable to be set aside.

5. Learned advocate for the opposite party no.2, on the other hand submits that in tradition bound society, a village girl willingly and voluntarily does not leave the matrimonial home. The opposite party no.2 left her matrimonial home under compulsion on being threatened, assaulted and humiliated for demand of dowry. Therefore, the opposite party no.2 did not want to lead conjugal life with the petitioner.

6. It is also submitted by the learned advocate for the opposite party no.2 referring to the relevant paragraph of the impugned judgment that in the year 2014, the opposite party no.2 used to earn Rs.34,000/- per month, during the lapse of time salary has been increased. Therefore, a sum of Rs.8,000/- towards maintenance of the opposite party no.2 is absolutely justified and proper amount and there is no need to set aside the impugned order.

7. Having heard the learned counsel for the parties and on careful perusal of the materials available on record, this Court is of the view that maintenance allowance depends upon the social and economic background of the parties. The opposite



party no.2 is the married wife of an Army Personnel who earns more than Rs.40,000/- per month towards his salary.

8. Considering her income, the amount of maintenance which has been granted by the trial court seems to be well justified and proportionate to the need of bear minimum of the opposite party no.2.

9. Accordingly, I do not find any reason to interfere with the impugned order, the impugned order is therefore, affirmed and the criminal revision application is dismissed.

10. If necessary, the opposite party no.2 is at liberty to make necessary application for recovery of maintenance allowance from the salary of the petitioner by making appropriate application in the Trial Court.

(Bibek Chaudhuri, J)

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