

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.459 of 2017

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

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Raj Kishore Hazra @ Chhotu, S/o Late Sudarshan Hazra, Resident of Village-
Nerui, P.S. Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asha Devi, W/o Rajkishore Hazra, D/o Ram Prasan Manjhi, Resident of
Village- Jadu Barhoga Badhai Tola, P.S. Jamo Bazar, District Siwan.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Yashraj Bardhan, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Sanjay Kumar Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

12 02-12-2023 Heard learned counsel for the petitioner and learned

counsel for the opposite party no. 2 as also learned APP for the

State.

2. The petitioner is aggrieved by and dissatisfied with

the order dated 13.01.2017 passed in Criminal Appeal No. 56 of

2015 by learned Additional District and Sessions Judge-IV,

Siwan whereby and whereunder the learned court has been

pleased to upheld the order dated 07.10.2015 passed by learned

Judicial Magistrate, 1st Class, Siwan in Domestic Violence Case

No. 08 of 2014.

3. On facts, it is an admitted position that the

petitioner and the opposite party no. 2 are husband and wife

respectively. They were married on 27.04.1999. It is alleged by

the opposite party no. 2 that the petitioner ousted her from the matrimonial house on 07.06.2007 whereafter she was constrained to file a case against her husband. It is alleged that subsequently on 31.10.2009, the petitioner took her to his native place but after two-three days, he left her alone and went to Chitranjan from where he never came back. It is also alleged that the petitioner is living with another woman at Chitranjan. The petitioner is an employee at Chitranjan in Indian Railways and at the relevant time, his salary was at least Rs.35,000/-. The opposite party no. 2 claimed that this petitioner has also got land and he has fixed deposits of about Rs.10 lakhs.

4. Learned Judicial Magistrate, 1st Class, Siwan considered the case of the applicant-wife and the present petitioner. A Domestic Incident Report (DIR) was also called for from the Protection Officer. The Protection Officer reported that domestic violence has taken place and the complainant is residing at her parental house alone and she was unable to maintain herself. The report also informed that the present petitioner is residing and working in Railways at Chitranjan.

5. Learned Magistrate having considered the entire materials on the record directed the respondent-husband to give the possession of a room to the complainant forthwith either at

Chitranjan or at Village-Nerui, P.S.-Mirganj, District-Gopalganj, if the complainant wishes to live there. Learned Magistrate also ordered the petitioner to pay a sum of Rs.7,000/- per month to the complainant-O.P. No. 2 as maintenance and the SHO of the Mirganj Police Station, District-Gopalganj and the SHO of Fatehpur Police Station, District-Bardaman were directed to provide protection to the complainant and assist her in the implementation of the order.

6. Learned counsel for the petitioner submits that the order passed by the learned Magistrate was assailed in an appeal giving rise to Criminal Appeal No. 56 of 2015 and the same was considered by the learned Additional District and Sessions Judge-IV, Siwan. It is submitted that the learned Appellate Court did not find any fault with the order of the learned Magistrate and refused to interfere with the same.

7. It is submitted that learned Magistrate as well as learned Appellate Court did not consider that it was the complainant-O.P. No. 2 who deserted the petitioner and she had been harassing the petitioner by filing various kind of litigations. It is submitted that the petitioner is always ready and willing to keep O.P. No. 2 in his house with full dignity and care but the opposite party no. 2 is not willing to live with the

petitioner.

8. Having heard learned counsel for the parties and on perusal of the records, this Court finds that as per the report of the Protection Officer, domestic violence has taken place and the opposite party no. 2 has been found entitled to an order for residence as well as maintenance in terms of the provisions of the Protection of Women from Domestic Violence Act, 2005.

9. It is an admitted position in this case that the petitioner is an employee of Indian Railways and he was getting a salary of at least Rs.35,000/- per month at the relevant time, a fact which has not been disputed before this Court. Under these circumstances, if the Court has allowed a sum of Rs.7,000/- per month to the wife of the petitioner as maintenance, it is only 20% of the salary amount. There is no reason as to why the petitioner would not pay even this much to his wife in order to enable her to maintain herself. No error has been found in the impugned orders.

10. This revision application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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