

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1202 of 2016

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

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Abhilasa Devi, wife of Sonu Anand Jha, presently residing t illage Pindaruch,
P.S. Kamtaul, District Darbhanga

... .. Petitioner/s

Versus

Sonu Anand Jha, son of Late Bharat Jha, a permanent resident of villasge
Changel, P.S. Katra, District Muzqaffarpur, presently residing at Chhagan
Bhai Ki Chall, Swami Narayan Nagar, Pavai, P.S. Pavai, Mumbai
(Maharashtra)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajni Kant Jha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 07-10-2023

The present revision application has been filed by the petitioner, who is the wife of Opposite Party No. 2, against the order, dated 19.10.2016, passed by learned Principal Judge, Family Court, Darbhanga, in Maintenance Case No. 245 of 2010, whereby the Opposite Party has been directed to pay a sum of Rs. 3,000/- per month to the petitioner as maintenance. The petitioner-wife has prayed for enhancement of the maintenance amount.

2. The petitioner is the legally wedded wife of the Opposite Party-husband and marriage between them was solemnized on 09.03.2008 according to Hindu rites and rituals at Darbhanga. It is the case of the petitioner-wife that after marriage,



the petitioner-Opposite Party, who is a BBA graduate, took the petitioner-wife to Mumbai, where he was working in a shipping company, which was engaged in the business of import and export and the Opposite Party was drawing a salary of Rs. 40,000/- per month. The agricultural income of the husband of the petitioner to the tune of Rs. 10,000/- per month is also there. Till December, 2008, the petitioner and the Opposite Party were living together happily and thereafter the Opposite Party-husband brought her wife-petitioner to her parental house in December, 2008, assuring her that he was going abroad for a fortnight and upon return, he would fetch her back to Mumbai. The said promise was never fulfilled.

3. The wife is a destitute and deserted lady having no source of income and is living with her parents since 2008 and has been maintaining herself from money borrowed from the family members on the supposition that she would pay the entire debt amount from the money of her husband. Being heavily in debt, the petitioner-wife was compelled to file the present maintenance case, under Section 125 of the Code of Criminal Procedure, 1973, bearing Maintenance Case No. 245 of 2010 against her husband-Opposite Party, wherein she has demanded a sum of Rs. 15,000/- as monthly maintenance. When the family members of the



Opposite Party-husband came to know about the filing of the maintenance case, they brought the petitioner-wife back to her matrimonial home. At this stage, the petitioner-wife came to know about the illicit relationship of her husband, due to which her husband- Opposite Party wilfully neglected her. The petitioner-wife was subjected to torture and cruelty at the hands of the Opposite Party and his family members. The demand of dowry was made and her pregnancy was also aborted and ultimately she was ousted from her matrimonial home on 20.02.2011.

4. It has further been alleged that the Opposite Party-husband has solemnized second marriage with a lady, namely, Bulbul Devi of Sitamarhi district on 09.02.2011 and they have a child from the said wedlock.

5. The wife being left with no other option, but to file Kamtaul Police Station Case No. 116 of 2011, under Sections 406/498-A/494/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. In the said case, the petitioner-husband was granted bail wherein he volunteered that he would pay a sum of Rs. 5,000/- per month as maintenance.

6. Learned Counsel for the petitioner submits that the husband-Opposite Party has been paying a sum of Rs. 5,000/- as monthly payment to the petitioner-wife pursuant to the condition



of bail granted by learned Sessions Judge, Darbhanga, in ABP No. 1187 of 2011. She further submits that the learned Family Court has awarded the further maintenance of Rs. 3,000/- per month from the date of filing of the application; whereas the order for payment of Rs. 5,000/- is from the date of passing of the order in anticipatory bail application of the Opposite Party.

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

8. Despite valid service of notice to Opposite Party, no one appears on his behalf.

9. Two witnesses were examined from the side of petitioner-wife, including the petitioner-wife herself. No documentary evidence was produced by petitioner-wife. The wife and the other witness have reiterated the same facts in their evidence.

10. The Opposite Party, in his deposition, has stated that the petitioner-wife was never taken to Mumbai by him and the real fact is that after marriage, the Opposite Party was living with his wife at her parental home, where he came to know that his wife is suffering from some Psychiatric disease (mental, emotional and behavioural disorders), for which she was being treated at



Darbhanga and also at Ranchi, but she could not recover from her ailment. to normalcy. Thereafter, the Opposite Party-husband went to Mumbai for his duty, leaving behind his wife-petitioner at her parental home. The Opposite Party-husband was sending money to the petitioner-wife for her expenses and asked the brother of the petitioner-wife to bring her to Mumbai. The petitioner-wife came to Mumbai, where she lived for 10-15 days and her brother took her back to Darbhanga. The allegation of second marriage/illicit relationship is false and baseless. He has also deposed that he is maintaining his wife by paying her Rs. 5,000/- per month regularly.

11. The learned Family Court has come to the conclusion that the petitioner-wife was subjected to torture and was ousted from her matrimonial home due to non- fulfilment of demand of dowry. The wife is unable to maintain herself and has no source of income. The husband-Opposite Party is earning handsome salary in Mumbai.

12. Having heard learned Counsel for the petitioner and upon perusal of the materials on record, this Court comes to the conclusion that the petitioner-wife has not produced any paper showing the income of the husband-Opposite Party and the income of the husband-Opposite Party disclosed by the petitioner-wife, as



Rs. 40,000/- per month, has also not been denied by the Opposite Party inasmuch as he has accepted that he is working at Mumbai. The petitioner-wife has also not produced any document before this Court showing any enhancement in the salary of the husband- Opposite Party, which could warrant interference in the impugned order.

13. 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.

14. This application is, accordingly, dismissed.

15. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	11-09-2023
Uploading Date	07-10-2023
Transmission Date	N/A

