

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.642 of 2018

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

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Kedar Prasad Pal @ Kedar Pal Son of Late Banawari Pal, Resident of Village- Akorhi, P.O. Akorhi, P.S.- Akorhi Gola, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. Asha Pal and Ors W/o Kedar Prasad Pal, resident of Village- Akhorhi, P.O.- Akhorhi, P.S.- Akhorhi Gola, District- Rohtas at Sasaram, presently residing at H/o Phulchand Sao, Dehri-on-Sone, Pali More Gumti, District- Rohtas at Sasaram.
2. Anshu Kumari, D/o Kedar Prasad Pal,
3. Riya Kumari, D/o Kedar Prasad Pal.
4. Tushar Pal, S/o Kedar Prasad Pal, Asha Pal Natural guardian, All presently residing with Asha Pal H/O- Phulchand Sao, Dehri-on-Sone, Pali More Gumti, District- Rohtas at Sasaram.
5. The State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Prasad, Advocate
For the Respondent/s : Mr. Sri Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 13-12-2023 The instant Criminal Revision is directed against an order dated 6.4.2018, passed in Maintenance Case No. 96 of 2010 by the learned Principal Judge, Family Court, Rohtas at Sasaram. It appears from the record as well as submission made by the learned Advocate for the petitioner/husband that marriage of the petitioner was solemnized with the opposite party no.1 under hindu rites and ceremony on 11.6.1985. Subsequently, sometimes in 2005 she got a job at New Bharat Jagriti Anganbari Prashikshan Kendra, Pali Road, Dehri. Thereafter,



for her employment, the wife of the petitioner started to stay there. It is alleged by the petitioner that at her place of employment, she developed an illicit relation with another employee. The petitioner works in Gujrat as a daily wage worker. He earns Rs. 6,000 – 7,000/- per month. The Trial Court on consideration of evidence on record held that the petitioner is having some sort of job at Gujrat and has also got cultivable lands under his ownership. Considering the fact that the wife of the petitioner earns monthly salary from her job. The Trial Court granted maintenance for the three children of the parties at the rate of Rs. 2,000/- each, total is Rs. 6,000/-.

2. Learned Advocate for the petitioner submits that the petitioner does not have means to pay such amount as maintenance for his children. Moreover, the petitioner wants to stay with her wife/opposite party no.1 together and in such case, he will have the opportunity to use the salary of the opposite party no.1 for the maintenance of their children. Since the opposite party no.1 has her own earning she has also the responsibility to maintain their children.

3. Having heard the learned Advocate for the petitioner and the learned APP and on perusal of the materials on record, this court likes to record at the outset that the



Revisional Court does not have any jurisdiction to apprise evidence like that of an Appellate Court. The jurisdiction of the Revisional Court is totally confined to see as to whether there is any illegality, material irregularity or impropriety in the impugned order for which the Revisional Court intervention is necessary. On careful perusal of the impugned order, I do not find improper appraisal of evidence adduced by the parties before the Trial Court.

4. The learned Advocate for the petitioner submits that if the court directs the petitioner is willing to stay with the opposite party no.1 and they can maintain their children with both their income. This court is not in a position to accept such proposal for the reason that if a married lady is given an imputation of having illicit relationship with another person within her lawful justification that she make refuse to accept her husband to stay together.

5. At the same time, I am not unmindful to note that the present opposite party no.1 being employed has a duty to maintain her children. It is the duty of both the husband and wife to maintain their children.

6. For the reasons stated above, the impugned order dated 6.4.2018 passed in Maintenance Case No. 96 of 2010 is



modified directing the petitioner to pay maintenance allowance of Rs. 1,500/- his son and two daughters from the date of the order passed by the Trial Court within 10th of each succeeding month. The petitioner is directed to pay both earlier and current maintenance within 10th of each succeeding month. The instance application is thus partly allowed.

(Bibek Chaudhuri, J)

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