

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.964 of 2017

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

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Santosh Kumar Karn @ Prakash S/o Sri Muktilal Das, Resident of Forbesganj, In front of Dalmiya House, Ward No.10, P.S.- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Maya Prasad, W/o Santosh Kumar Karn @ Prakash, D/o Late Shyamanand Prasad, Resident of Rajendra Nagar, Madhuwani, P.S.- K. Hat, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh

For the Respondent/s : Mr.Sri Iftekhar Mahmood

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 27-06-2023

I.A. No. 2199 of 2017

The I.A. No. 2199 of 2017 has been filed for condonation of delay of 1½ month in filing the present Criminal Revision No. 964 of 2017.

For the reasons stated in the limitation petition, the same is allowed.

The delay in filing this Criminal Revision is condoned.

Cr. Revision No. 964 of 2017

The present Criminal Revision is directed against the order dated 22nd April, 2017 passed by learned Principal Judge, Family Court, Purnea in Maintenance Case No. 01 of 2013 / C.I.S. No. 0001022 of 2013 whereby the Family Court has



directed the petitioner to pay a sum of Rs. 6000/- per month to the Opposite Party No. 2 from the date of filing of the maintenance application.

The Opposite Party No. 2 filed a maintenance case stating therein that marriage between the petitioner and the Opposite Party No. 2 (wife) was solemnized on 20.05.2009. After some time, the petitioner started torturing the Opposite Party No. 2 and demand of dowry was also made by the petitioner and his family members. Ultimately she was ousted from her matrimonial home. A complaint case was lodged by the Opposite Party No. 2 against the petitioner and others under Section 498(A) of the I.P.C. before the C.J.M., Araria. The wife has claimed that petitioner earns about Rs. 30,000-35,000/- per month from flour mill business and departmental store and Rs. 6000-7000/- from seasonal grains. The petitioner has also rental income of Rs. 2000/- per month. The Opposite Party No. 2 produced two witnesses including herself, who has supported the fact regarding income of the petitioner from the above mentioned sources. However, neither W.S. was filed by the petitioner nor any witness was examined on his behalf. The witnesses of the Opposite Party No. 2 were also not cross examined by the petitioner.



Learned counsel for the petitioner submits that petitioner used to do regular *pairvi* in the maintenance case at Purnea but later on unable to appear and cross-examine the witnesses produced by the Opposite Party No. 2 due to the fact that Purnea court is at a distance of 75 KM from the place of his residence at Forbesganj. He challenges the impugned order on the ground that the order was passed ex-parte and no documentary evidence regarding income of the petitioner has been brought on record. The award of maintenance has been passed on a false and baseless claim by the wife (Opposite Party No. 2.). In fact, petitioner is an employee of a motor parts shop namely, M/s Lalan Motors and gets salary of Rs. 4,000/- per month, whereas, the wife is earning Rs. 30,000/- per month from coaching centre. Learned counsel also submits that Opposite Party No. 2 (wife) was suffering from some mental disease and was on medication and she was hot tempered and was not cordial at home and also aborted her pregnancy without the consent of the petitioner while she was staying at her parental home. The efforts of the petitioner to bring back his wife to his matrimonial home went in vain as the Opposite Party No. 2 with her brother started a coaching centre at Purnea from where she earns an income of Rs. 50,000-60,000/- per month.



I have heard learned counsel for the petitioner and have perused the impugned order. From perusal of the order it transpires that the learned Family Court initially tried to settle the dispute amicably between the parties and called the husband and wife for that purpose. The petitioner accepted the fact that Opposite Party No. 2 is his legally wedded wife but did not agree to keep her along with him in her matrimonial home whereas, the wife was ready to live with her husband. Learned Family Court has also arrived at a finding based upon the evidence produced by the Opposite Party No. 2 that there is no contradiction in the witnesses produced by the Opposite Party No. 2 and the petitioner did not produce any witness and also not cross examined the witnesses produced by Opposite Party No. 2. The learned court arrived at conclusion that the Opposite Party No. 2 has no income and the petitioner has sufficient income of about Rs. 30,000-35,000/- per month and accordingly awarded a sum of Rs. 6,000/- per month to be paid by the petitioner in favour of Opposite Party No. 2 as maintenance.

The submission of learned counsel for the petitioner before this Court that Opposite Party No. 2 was suffering from mental disease and was on medication. As such, the claim of the petitioner regarding the income of Opposite Party No. 2 to the



extent of Rs. 50,000/-60,000/- per month from a coaching centre at Purnea cannot be accepted inasmuch as a person, who is not mentally sound, cannot earn from a coaching centre.

In the case of Chaturbhuj v. Sita Bai reported in (2008) 2 SCC 316 the Hon'ble Supreme Court has 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.

In view of the aforesaid discussion and materials available on record, in my opinion, the impugned order does not suffer from any material irregularity and / or jurisdictional error.

The present application is dismissed.

(Anil Kumar Sinha, J)

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