

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1174 of 2017

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

Prasant Kumar Mishra @ Prasant Kumar S/o Devendra Mishra, R/o Village-
Loma, P.S.- Rajapakar, P.O.- Baranti, District- Vaishali.

... .. Petitioner/s

Versus

Archana Kumari W/o Prasant Kumar Mishra, R/o Village- Loma, P.S.-
Rajapakar, P.O.- Baranti, District- Vaishali, Present Add.- D/o Surendra
Singh, Village- Dharampur, P.S. and District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms.Archana Sinha @ Archana Shahi
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 8 21-09-2023 1. The present revision application has been filed by the petitioner, who is the husband of Opposite Party, against the order, dated 31.03.2017, passed by learned Principal Judge, Family Court, Vaishali, at Hajipur, in Maintenance Case No. 90 of 2014, by which the maintenance case filed by the Opposite Party has been allowed and the petitioner-husband has been directed to pay the Opposite Party a sum of Rs. 2,500/- per month from the date of filing of the application, excluding the amount of ad interim maintenance.
2. The Opposite Party is the legally wedded wife of the petitioner-husband and marriage between them was solemnized on 20.05.2009 according to Hindu rites and



rituals. Soon after he marriage, the petitioner and his family members started demanding the Alto Car as dowry and upon refusal, the Opposite Party was threatened by the family members of the petitioner that hey would perform second marriage of the petitioner. On 15.07.2011, the petitioner snatched the jewellery and other articles of the Opposite Party and ousted her from her matrimonial home. Since then, the Opposite Party has been living with her parents.

3. The Opposite Party has claimed that the petitioner is earning Rs. 50,000/- per month. She claims maintenance of Rs. 15,000/- per month from the petitioner.
4. Learned Counsel for the petitioner submits that the learned Family Court has awarded the same amount of maintenance of Rs. 2,500/-, which was awarded as interim maintenance. The petitioner is not having sufficient source of maintenance to pay a sum of Rs. 2,500/-. The petitioner has filed a divorce case, but the decree of divorce has not been issued. After filing of the divorce case, a criminal case, under Sections 498-A/323/379 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, has been filed by the



Opposite Party against the petitioner and his family members on 31.01.2013.

5. I have heard learned Counsel for the petitioner and have gone through the materials available on record, including the impugned order.
6. From perusal of the impugned order, it appears that the Opposite Party has adduced four witnesses in support of her case. PW 1 is the mother of Opposite Party, PW 2 is the Opposite Party herself, PW 3 is the father of the Opposite Party and PW 4 is the villager. All the witnesses have supported the atrocities committed upon the Opposite Party and have also deposed that the joint income of the family, including that of the petitioner, is Rs. 6-7 lakhs per annum. PW 2 (Opposite Party) has disclosed in her deposition that she was driven out of her matrimonial home. PW 3 has deposed that her daughter was driven out from her matrimonial home on 15.07.2011. He has further deposed that the petitioner is earning about Rs. 50,000/- per month from the coaching institute and the joint income of the family of the petitioner is about Rs. 4,00,000/- annually. PW 4 has supported the case of atrocities upon the Opposite Party.



7. The petitioner was also examined as defence witness. In his deposition, he has deposed that his wife used to put pressure upon him to get separated from his family. The behaviour of his wife/ Opposite Party was not good with his family members and accordingly he dropped her at her maika on 18.07.2011. The petitioner has further deposed that he is B.Sc. in physics and is unemployed. He denied the allegation of committing any atrocity and deposed that he hardly earns his livelihood from agriculture. The petitioner has denied all the allegations set upon him before the learned Family Court and has deposed that he is unemployed and is dependent upon his family for his livelihood. The petitioner has filed Divorce Case No. 296 of 2012, which is proceeding ex-parte and is at the stage of argument before the learned Family Court.
8. The learned Family Court, on the basis of material available on record, has arrived at the finding that the relationship of the husband and wife are not disputed. The Court has also arrived at the conclusion that the wife was subjected to cruelty and was ousted from her matrimonial home on 15.07.2011 and since then, she is living in her



parental home. Taking into account the totality of the facts, the learned Family Court has awarded a meager amount of Rs. 2,500/- per month as maintenance, which was also awarded as interim maintenance by the learned Family Court.

9. The Supreme Court, in the case of **Anju Garg and Another v. Deepak Kumar Garg**, reported in **2022 SCC ONLINE 1314**, has held that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children and the husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds.
10. In the case of **Chaturbhuj v. Sita Bai**, reported in **(2008) 2 SCC 316**, the Supreme Court has also 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.
11. 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.

12.This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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