

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1190 of 2017

Md. Islam S/o Late Md. Makhmul Mian @ Mohammad Makhmul, Resident
of Village- Bhirkhi, Turyahi, Ward No. 25, P.S. District- Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shaiyara Khatoon, W/o Md. Islam, D/o Late Usman, Jhiwal, Dumri, P.S.
Bhaptiyahi, District- Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nafisuzzoha

For the Respondent/s : Mr. Umeshnand Pandit

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 23-06-2023 The present revision application has been filed by the petitioner, who is the husband of Opposite Party No. 2, against the order, dated 26.07.2017, passed by learned Principal Judge, Family Court, Madhepura, in Maintenance Case No. 50 of 2013, by which the maintenance case filed by the Opposite Party No. 2 has been allowed and the petitioner-husband has been directed to pay the Opposite Party No. 2 a sum of Rs. 4,000/- per month as maintenance of the Opposite Party No. 2-wife and her four children.

The Opposite Party No. 2-wife filed Maintenance Case No. 50 of 2013, claiming that she is the legally wedded wife of the petitioner-husband and marriage between them was solemnized about 11 years back and has been residing in her parental home with her children.

According to the Opposite Party No. 2-wife, at the



time of filing of the maintenance case, she was pregnant, having six-months of pregnancy, and has claimed maintenance for herself and her four children, on the ground that the petitioner-husband is engaged in the business of bangles and cosmetics and is also having some cultivable land, where he grows vegetables, out of which he earns Rs. 15,000-20,000/- per month. The Opposite Party No. 2-wife has further contended that the petitioner-husband has failed to maintain her and her children.

Learned Counsel for the petitioner submits that the petitioner never refused to maintain the Opposite Party No. 2-wife or the children, but the Opposite Party No. 2-wife herself torture the petitioner and never wanted to live with him.

The petitioner-husband was examined before the learned Family Court, where he has stated that the marriage was solemnized about 13-14 years back, out of which four children were born and he is ready to keep his wife and children. After the death of his first wife, the petitioner-husband contracted second marriage with the Opposite Party No. 2-wife, but the Opposite Party No. 2-wife prefer to live in her parental home against the will of the petitioner-husband. The petitioner-husband is jobless and having no land and is aged about 55



years. The petitioner-husband has given money to the Opposite Party No. 2-wife for purchasing land and the Opposite Party No. 2-wife purchased land from the said money near her parental home.

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

Both the sides have adduced oral evidence before the learned Family Court inasmuch as three witnesses were examined on behalf of the Opposite Party No. 2-wife and four witnesses were examined on behalf of the petitioner-husband.

The learned Family Court, taking into account the evidence on record, has arrived at the finding that the petitioner-husband ousted her wife from her matrimonial home and she has been residing in her parental home for the last four years. The learned Family Court has also assessed the income of the petitioner-husband after taking into consideration the rival materials produced by the parties, at Rs. 10,000-12,000/- per month and also come to the conclusion that the Opposite Party No. 2-wife is having no source of income and has to maintain herself and her children. It is also not in dispute that a case under Section 498-A of the Indian Penal Code, bearing



Madhepura Police Station Case No. 211 of 2012, is pending between the parties and it is the case of the Opposite Party No. 2-wife that after performing the marriage of the elder son of the petitioner-husband, the petitioner-husband started torturing the Opposite Party No. 2-wife and has ousted her from her matrimonial home. As such, in my opinion, the Opposite Party No. 2-wife has sufficient reason not to live with the petitioner-husband.

In the case of **Chaturbhuji 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.

In view of the discussion herein above, I come to the conclusion that the impugned order of maintenance of a meager amount of Rs. 4,000/- does not require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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