

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1184 of 2017

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

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Ram Kumar Mandal S/o Siv Sankar Mandal, R/o Village- Maghigam , P.O.-
Hari Nagar P.S.- Kusheswar Asthan, District- Darbhanga.

... .. Petitioner/s

Versus

Anju Devi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kedar Jha, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

2 06-01-2023 1. Heard learned counsel appearing on behalf of the
petitioner/revisionist.

2. The present criminal revision is being preferred
having aggrieved and dissatisfied with the judgement dated
18.08.2017, passed by learned Principal Judge, Family Court,
Darbhanga in Maintenance Case No. 184 of 2010 (Registration
No. 309 of 2014), wherein, Opposite Party (wife) has allowed
maintenance amount of Rs. 2,500/-.

3. Learned counsel for the petitioner/revisionist
assailed the impugned judgment mainly on two (02) grounds,
firstly, that maintenance amount to opposite party as allowed by
learned trial court is excessive and without recording a proper
finding with respect to source of income of the
petitioner/revisionist. It is submitted that if evidence surfaced



during course of trial, be taken into consideration the income of petitioner appears from tuition classes is not beyond Rs. 2,500/- month. It is also submitted that the opposite party/wife is working as Anganwari Sevika, but fairly conceded that no evidence appears in judgment of this effect as this issue was not raised before learned trial court.

4. Secondly, that suit under Section 12 of Hindu Marriage Act, 1955, is pending before learned Family Court, Darbhanga to declare the marriage of petitioner with opposite party/wife as void for the reason that marriage of petitioner/revisionist was never consummated with opposite party/wife as her private part found ill developed and she is not physically fit for cohabitation and also to procreate child.

5. From impugned judgment, it appears that marriage of opposite party/wife solemnized with petitioner/revisionist as per Hindu rites and rituals, somewhere, in the year 2005. After sometime, an additional demand of dowry was raised for cash of Rs. 50,000/-, and when same was not fulfilled, the Opposite Party/wife was ousted from the house of petitioner/revisionist and also she was collectively assaulted by the petitioner and his family members.

6. It appears from impugned judgment that petitioner has 03 (three) 'bighas' of cultivated land along with earnings



from tuition, where, he charges Rs. 100/- – Rs. 125/- per students, per month. Evidence also suggest that father of the petitioner/revisionist having two room's house in Kolkata and also running textile shop. There is no evidence, which may suggest earning of opposite party/wife.

7. It is admitted position that no maintenance amount ever paid by this petitioner/revisionist, in furtherance of the impugned judgment, where, only a meager amount of Rs. 2,500/- per month, allowed as monthly maintenance.

8. As far, second contention of petitioner is concerned regarding the fact that marriage was never consummated with opposite party, may be a bonafide contention and submission for his suit, as filed under Section 12 of the Hindu Marriage Act before learned trial court, but it not appears relevant while deciding present revision, where, this Court is look into only illegality and impropriety. Finding of impugned order is not appearing perverse on its face. It would be appropriate to mention that in the matter of ***“Ramesh Chandra Rampratap Ji Daga v. Rameshwari Rameshchandra Daga, AIR 2005 SC 422”***, where, Hon'ble Supreme Court held that wife deserves to be granted maintenance even marriage between the parties declared as illegal, null and void, in terms of decree passed under Section 12 of the Act.



9. Having regard to the submission noted hereinabove and materials discussed in the impugned judgement particularly the fact that the petitioner is earning by way of tuition and having 03 (three) '*bighas*' of cultivated land and his father is running textile shop in two room's house in Kolkata, being no liability on him, and further amount of maintenance allowed to the opposite party/wife is meager amount, this Court finds no reason to interfere with the same.

10. Accordingly, the Principal Judge, Family Court, Darbhanga shall proceed to recover the amount and get it paid to the wife as early as possible in accordance with law.

11. Since the petitioner has not paid a single farthing to the opposite party for all 06 (six) years in the name of pending litigation, he is directed to pay a sum of Rs. 10,000/-, as cost of litigation, within one month from the date of order.

12. If the amount is not paid, the same shall be realized by the learned court below through the process of court.

13. The present petition is stands dismissed, accordingly.

(Chandra Shekhar Jha, J)

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