

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.48 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Nawada

Manish Tiwary Son of Murari Tiwary Resident of Mohalla - Kalyanpur
Guddu Sai, P.S.- Mufassail, District- West Sinhbhum (Chaibasa), Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar
2. Premrata Devi @ Nibha Wife of Manish Tiwary, D/O - Sri Rajendra Pathak
Resident of Kalayanpur Guddu Sai, P.S.- Mufassil, District- West Sinhbhum
(Chaibasa), presently residing at Ambedkar Nagar par Navada, P.S.- Navada,
District- Navada

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hansraj, Advocate
For the O.P. No. 2	:	Mr. Rajiv Nayan, Advocate
For the State	:	Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

11 25-11-2024 The present Criminal Revision petition has been preferred by the petitioner against the impugned order dated 27.11.2019, whereby learned Principle Judge, Family Court, Nawada has allowed the maintenance to the O.P. No. 2/wife and her two minor children @ Rs. 5,000/-, Rs. 3,000/- and Rs. 3,000/- per month respectively.

2. Heard learned counsel for the petitioner, learned APP for the State and learned counsel for the O.P. No. 2/wife.

3. Learned counsel for the petitioner submits that the impugned order is not sustainable in the eye of law. The quantum of monthly maintenance allowed by the impugned



order is excessive. He is unemployed and earns only Rs. 4,500/- per month by working at a shop of cloth. He also submits that O.P. No. 2/wife has not produced any documentary proof in support of her claim regarding income of the petitioner.

4. Learned APP for the State and learned counsel for the O.P. No. 2/wife, however, submit that there is no illegality or infirmity in the impugned order. They further submit that there is no dispute regarding the marriage between the petitioner and the O.P. No. 2, nor is any dispute regarding birth of two minor children out of the wedlock and the minor children living with the O.P. No. 2/wife. They also submit that on account of cruelty, O.P. No. 2/wife is living at her *maiye* along with two minor children. Learned Court below has rightly allowed the maintenance by the impugned order @ Rs. 11,000/- per month. They further submit that at present, the petitioner/husband is paying only Rs. 8,000/- per month as per the interim order of this Court. They also submit that there is arrear of about Rs. 5,00,000/- (five lac) towards compliance of this impugned order.

5. I considered the submissions advanced by the parties and perused the entire materials on record including the impugned order.

6. I find that undisputedly the petitioner is married



with O.P. No. 2 having two minor children out of the wedlock and these two minor children are living with the O.P. No. 2/wife. It has also come on record that on account of non-fulfillment of demand of dowry, the O.P. No. 2/wife was subjected to cruelty and ousted from the matrimonial home and hence, she is living at her *maiye* along with her two minor children.

7. I further find that O.P. No. 2/wife has claimed that the petitioner has monthly income of Rs. 75,000/- from a computer institute besides monthly income of Rs. 10,000/- from a house at Chaibasa besides annual income of Rs. 1,00,000/- (one lac) from ten bigha landed property.

8. I further find that during the trial, the O.P. No. 2/wife, who has been examined as a witness, in support of her claim of income of her husband/petitioner, she was not cross-examined by the petitioner/husband despite opportunity. Hence, she was discharged without any cross-examination.

9. As such, the evidence of O.P. No. 2/wife remains intact for want of any cross-examination on her claim regarding income of her husband/petitioner. Hence, learned Court below has found the income of the petitioner/husband accordingly and directed the husband/petitioner to pay monthly maintenance to



the wife and two minor children @ Rs. 5,000/-, Rs. 3,000/- and Rs. 3,000/- per month respectively.

10. Hence, I find that there is no illegality or infirmity in the impugned order.

11. Accordingly, the present Criminal Revision petition is dismissed.

(Jitendra Kumar, J.)

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