

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.147 of 2019

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

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REHANA KHATOON @ RIHANA BEGUM Tasleem Miyan Resident of
Chargaha Kachahariya Tola, P.S-Turkauliya, Distt.-East Champaran

... .. Petitioner/s

Versus

TASLEEM MIYA Late Israil Miyan BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 01-04-2024 Notice of the instant proceeding was duly served upon the opposite party but in spite of service of notice, the opposite party has not turned up.

2. Therefore, the instant revision is taken up for hearing.

3. The wife of the petitioner is the applicant before this Court, challenging the order of maintenance passed in Maintenance Case No. 01 of 2017 by the Principal Judge, Family Court, East Champaran at Motihari on 4th October 2018, directing the opposite party/husband to pay maintenance at the rate of Rs. 2,000/- per month.

4. On perusal of the impugned order, it appears that marriage of the petitioner with the opposite party is an admitted fact. It is also admitted that in the said wedlock, the petitioner



gave birth to three sons and one daughter. It is contended by the petitioner that the opposite party has contracted a second marriage and compelled the petitioner to stay with the second wife of the opposite party. Since the petitioner is a destitute lady, she was compelled to stay with the second wife of the opposite party for few days. Subsequently, she was driven away from her matrimonial home along with her children. It is also contended by the petitioner that the opposite party carries on a business of selling meat and he earns Rs. 25000/30000/- thousand per month from his business.

5. The opposite party contested the said proceeding by filing a written objection, however, in support of his written objection, he did not lead any evidence. On the contrary, three witnesses were examined on behalf of the petitioner. They stated an oath that the opposite party earns approximately Rs. 30-40 thousand per month from his business by selling meat. The petitioner has been residing with 4 minor children. She has no source of income under such circumstances, an amount of maintenance at the rate of Rs. 2,000 is highly disproportionate to the basic needs of the petitioner and her children. Moreover, the learned Judge did not assign any reason as to why he disbelieved the monthly income of the opposite party as stated



by the witnesses on behalf of the petitioner.

6. For the reasons stated above, I find that the impugned order dated 4th October 2018 passed in Maintenance Case No. 1/2017 is bad in law. In view of the fact that the learned Principal Judge, Family Court, East Champaran, failed to exercise his jurisdiction vested in him, in accordance with the law. The impugned order is, therefore, set aside. The learned Principal Judge, Family Court, East Champaran, Motihari is directed to re-write the judgment passed in Maintenance Case No. 01 of 2017 on the basis of the evidence adduced by the witnesses on behalf of the petitioner within three months from the date of communication of this order.

7. The instant revision is accordingly allowed. There shall, however, be no order as to cost.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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