

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1291 of 2017

Prashant Kumar @ Prasant Kumar, Son of Raj Kapoor Prasad, Resident of Mohalla- Ratanpura near Dharmnath Temple, Police Station- Bhagwan Bazar, District Saran Chapra.

... .. Petitioner

Versus

Priyanka Kumari, Wife of Prashant Kumar @ Prasant Kumar, Daughter of Sushil Jee, Resident of Mohalla- Hardan Basu Lane, P.S. Bhagwa Bazar, District- SaranChapra

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Arun Kumar Rai, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-01-2024

Heard learned counsel for the petitioner on the point of admission and I intend to dispose of the present petition at the stage of admission itself.

02. The petitioner has filed the present petition against the order dated 22.04.2017 passed by the learned Principal Judge, Family Court, Saran at Chapra in Matrimonial Case No. 13 of 2015 instituted for restitution of conjugal rights, whereby and whereunder the learned Family Court rejected the petition dated 02.02.2016 filed by the petitioner for direction to the father of opposite party/respondent to make arrangement for treatment of opposite party with co-operation of the family members of the petitioner.

03. The case of the petitioner is that the



respondent/opposite party is his wife and their marriage was solemnized on 04.12.2013 according to Hindu Rites and Rituals. The opposite party/respondent came to the house of the petitioner on 05.12.2013 and her behaviour was abnormal as she was under treatment for some mental ailment. The petitioner and his father got her treated at Sadar Hospital, Chapra and also at PMCH. Birth of a child also took place out of the wedlock. On 25.01.2015, the mother of the opposite party/respondent came to the house of the petitioner and took the opposite party with her minor child to her maternal home. When the petitioner went to maternal house of the opposite party on 05.02.2015 to bring her back, the same was refused by the mother of the opposite party. Thereafter, the petitioner has filed a case for restitution of conjugal rights before the court of learned Principal Judge, Family Court, Saran at Chapra. The opposite party appeared and filed her written statement denying all the claims made by the petitioner and also made certain allegations against the petitioner and his family members. The opposite party also filed a criminal case against the petitioner and his family members under Section 498(A), 323, 307, 378 of the Indian Penal Code and Section 3 of Dowry Prohibition Act before the court of learned SDJM, Chapra. Thereafter, some sort



of compromise took place and the opposite party again went to live with the petitioner. She again suffered from bouts of mental illness and became aggressive. Thereafter, the petitioner filed the petition dated 02.02.2016 for direction to the father of opposite party/respondent to make arrangement for treatment of opposite party with co-operation of the family members of the petitioner. The opposite party filed rejoinder on 22.03.2016 to the petition filed by the petitioner. Thereafter, after hearing both the parties, the learned Principal Judge, Family Court, Saran at Chapra rejected the petition dated 02.02.2016 filed on behalf of the petitioner.

04. Learned counsel for the petitioner submits that the learned Family Court has wrongly appreciated the facts and circumstances of the case. The learned Family Court has not taken into consideration the facts about earlier treatment of the opposite party who is afflicted with mental ailment. The learned Family Court has also not considered that the opposite party used to flee away at her maternal home though the petitioner always wants to keep her with honour and dignity. For this reason, the petitioner could not fulfill his duty to maintain the opposite party and arrange for her proper treatment. Learned Family Court also failed to take into consideration the fact that



due to hopeless behaviour of opposite party and her family members, the petitioner was compelled to file the petition before the learned Family Court. Hence, the order dated 22.04.2017 passed by the learned Principal Judge, Family Court, Saran at Chapra suffers from infirmity and the same may be set aside.

05. I have given my thoughtful consideration to the material on record and the submission made on behalf of the petitioner. Evidently, the petitioner has filed the case before the learned Principal Judge, Family Court, Saran at Chapra for restitution of conjugal rights. If the same is allowed, the petitioner can always take the opposite party for treatment and being the husband of the opposite party he does not need the permission or co-operation from father of the opposite party. Moreover, from the averments made in the petition, it appears that some sort of compromise has taken place and the opposite party went to stay with the petitioner. If the petitioner was so concerned with the treatment of the opposite party, when the opposite party has been staying at his place, he could have arranged for the treatment of opposite party. It also appears from the impugned order that the opposite party is ready to go with the petitioner. So, the petitioner has every opportunity to take care of his wife/respondent herein. The learned Family Court



has considered all the aspect of the matter and by a reasoned order rejected the petition of the petitioner while also making a comment that intention of the petitioner was not good and he failed to perform his conjugal duties. If the petitioner wants to create evidence in this manner, such tendency should be severely deprecated.

06. Therefore, in the facts before this Court, I am of the considered opinion that there is no infirmity in the impugned order and the same has been passed with due consideration which does not require any interference by this Court.

07. Accordingly, the present petition stands dismissed at the stage of admission itself.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.01.2024
Transmission Date	N/A

