

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.155 of 2019

Arising Out of PS. Case No.-08 Year-2010 Thana- BARIYARPUR District- Munger

Shambhu Paswan @ Ranjit Paswan @ Shambhu Kumar Mohan Paswan
Resident of Sahabad Mirzachauki, P.S.-Pirpanti, District-Bhagalpur, at
present District Police Force Constable No.378, Police Line, Kodarma
District-Koderma (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anuradha Singh Galaut @ Dolly Shambhu Paswan @ Ranjit Paswan @
Shambhu Kumar D/O Devendra Paswan Resident of Gharghat, P.S.-
Bariarpur, District-Munger

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar Jha, Adv Mr.Subodh Kumar Jha, Adv Mr.Roshan Kumar Jha, Adv
For the State	:	Mr.Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 10-01-2024 Heard learned Advocate for the petitioner and learned
APP for the State.

2. An order dated 7th of November, 2018, passed by
the learned Principal Judge, Family Court at Munger in
Maintenance Case No. 65(M) of 2014, dated 27th of November,
2018, is impugned in the instant revision.

3. The Opposite Party No. 2 was the petitioner before
the Trial Court, claiming maintenance from her husband, the
petitioner herein. It is not in dispute that marriage of the parties
was solemnized on 10th of June, 2009 and on 14th of June, 2009,



the Opposite Party No. 2 left her matrimonial home with his brother. The learned Trial Judge recorded in his order that during the pendency of the maintenance case, several attempts were made for reconciliation but the Opposite Party No. 2 was not agreeable to live conjugal life with her husband, the petitioner herein.

4. The case of the petitioner/husband in the Trial Court is that the petitioner left her matrimonial home on the fourth day of her marriage and the said marriage was not consummated. He filed a suit for restitution of conjugal rights but his wife refused to return to her matrimonial home. It is also alleged by the present petitioner that the Opposite Party No. 2 runs a beauty parlor and earns Rs. 30,000/- to 40,000/- per month.

5. The learned Trial Judge refused to consider the case of the Opposite Party as well as the evidence adduced on behalf of him on the ground that the husband failed to produce any document in support of the income of his wife as the owner of a beauty parlor. The learned Judge found that the Opposite Party No. 2 is the legally wedded wife and she has been residing at her parental home. Thirdly, the petitioner could not prove that his wife earns 30,000/- to 40,000/- by running a beauty parlor.



Therefore, the petitioner is under obligation to pay maintenance allowance to the Opposite Party No. 2. The learned Principal Judge did not consider that a married lady is not entitled to get any maintenance allowance, if she refuses without any cause or justification to live with her husband.

6. In the instant case, marriage of the parties was solemnized on 10th of June, 2009 and the Opposite Party No. 2 /wife left her matrimonial home on 14th of June, 2009. There is absolutely no evidence which prompted the Opposite Party No. 2 to leave the association of her husband. The learned Principal Judge did not consider such aspect of the matter.

7. Therefore, the impugned order is set aside.

8. The learned Principal Judge, Family Court, Munger is directed to pass a reasoned order on the basis of evidence on record on due consideration of the fact as to whether the Opposite Party No. 2/wife voluntarily left her matrimonial home or she was ousted by the present petitioner from her matrimonial home.

9. In the first case, the petitioner will not be entitled to get any maintenance. Of course, on proof of the alternative, the learned Judge is at liberty to grant an order of maintenance allowance in favour of the petitioner.



10. With the above observation, the impugned order is
set aside and the instant revision is accordingly allowed.

(Bibek Chaudhuri, J)

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