

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.400 of 2019

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

Yogendra Prasad Singh Son of Late Jai Govind Singh, Resident of Village-Manguraha, Post Office-Nawada, Police Station-Masarakh, District-Saran at Chhapra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saraswati Devi Wife of Yogendra Prasad Singh, Daughter of Mohan Singh, Resident of Village-Manguraha, Post Office-Nawada, Police Station-Masarakh, District-Saran at Chhapra, At present Mohalla-Uma Nagar, Post Office-Sadha, Police Station-Chhapra, District-Saran at Chhapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Navin Kumar Pandey, Advocate Mr. Kamala Kant Tiwary, Advocate
For the State	:	Mr. Akbar Ali, APP
For the O.P. No.2	:	Mr. Bhaskar Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

8 09-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the O.P. No.2.

2. The present petition has been preferred by the petitioner against the impugned final maintenance order dated 28.11.2018 passed by learned Principal Judge, Family Court, Saran at Chapra in Maintenance Case No. 69 of 2011 whereby the petitioner/husband has been directed to pay Rs.5,000/- to his wife/O.P. No.2 towards her maintenance.

3. Learned counsel for the petitioner submits that O.P. No.2/wife is not entitled to get any maintenance amount because



she is living separately without any rhyme and reason and she is living in the house constructed by the petitioner himself along with his son, namely, Rakesh Kumar Singh, who is a Lecturer. She has Rs.30,000/- per month income from other sources like agricultural land as well as rent from the house. He further submits that during the service, petitioner had purchased some land in the name of the wife/O.P. No.2 and he has also purchased some L.I.C. in her name and deposited Rs.25,000/- in fixed deposit scheme. She has got Rs.50,000/- after maturity of the said fixed deposit.

4. However, learned A.P.P. for the State and learned counsel for the O.P. No.2/wife defend the impugned order submitting that there is no illegality or infirmity in it. To substantiate their submissions, they submit that admittedly the petitioner/husband is a retired teacher and he is getting monthly pension of above Rs.25,000/- which has not been refuted by the Petitioner by filing any documentary proof like passbook or pension slip showing to exact amount of pension.

5. However, learned counsel for the Opposite Party No. 2 admits that the house where the O.P. No.2/wife is living was purchased and constructed by the petitioner/husband. However, he submits that as per the evidence on record adduced



by the petitioner, there is no any income from any other source either from rent or any agricultural land to Opposite Party No. 2. However, he admits that some land has been purchased by the petitioner/husband in her name, but there is no substantive income from those land and hence, O.P. No.2/wife is dependent upon support of her son, namely, Rakesh Kumar Singh with whom she is living. He also submits that O.P. No.2/wife is living separately from the petitioner/husband on account of his illicit relationship with his elder daughter-in-law since 1994.

6. I considered the submissions advanced by both the parties and perused the materials on record.

7. Admittedly, O.P. No.2/Saraswati Devi is legally wedded wife of the petitioner (a retired Teacher of Government Middle School). All the children born out of the wedlock are major and married. The wife/O.P. No.2 has alleged that the petitioner/husband was having illicit relationship with another lady since 1994. Hence, she is living separately from the petitioner/husband with his son Rakesh Kumar Singh. The O.P. No.2/wife has claimed monthly maintenance of Rs.20,000/- claiming that the petitioner/husband is having monthly pension of Rs.25,000/- besides Rs.2,00,000/- annually income from his agricultural land. The petitioner/husband has claimed that the



house where his wife/O.P. No.2 is living was constructed by him. Petitioner has also claimed that he has also purchased some land in the name of O.P. No.2/wife, besides purchasing some L.I.C. policy and depositing Rs.50,000/- in a fixed deposit scheme in her name. He has claimed that she has total income of Rs.30,000/- per month from all sources.

8. After perusal of the total materials on record, I find that there is no dispute that the petitioner is a retired teacher and getting monthly pension of Rs.25,000/-. I further find that the house where the wife/O.P. No.2 is living along with her son is purchased and constructed by the petitioner/husband himself. However, petitioner/husband has not brought on record any cogent evidence to show that O.P. No.2/wife has any income from any source, viz, land or rent. The petitioner/husband has also not brought on record that he is paying any EMI towards any loan from the pension amount.

9. Considering the aforesaid facts and circumstances, particularly the fact that the wife/O.P. No.2 is living in the house provided by the petitioner/husband. Monthly maintenance @ Rs. 5000/- is just and not on higher side.

10. Accordingly, the present petition is dismissed.

11. O.P. No.2/wife has liberty to file appropriate



application before the Family Court for enforcement of the maintenance order.

12. Any interim order, if passed, stands vacated and if any I.A. is on record, that stands disposed of.

(Jitendra Kumar, J.)

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