

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.373 of 2020

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

Irshad Ali S/O- Syaed Shahnawaj Resident Of Village- Aurangabad Saraiya,
P.S.- Tilauthu, District- Rohtas.

... .. Petitioner

Versus

Marzia Qummy W/O- Irshad Ali, D/O- Alamdar Hussain Resident Of Village-
Khujwa, P.S.- Raghunathpur, District- Siwan.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy, Advocate

For the Respondent/s : Mr. Akhouri Vipin Bihari Shrivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

11 25-09-2024 With the consent of both the counsels heard finally.

2. This revision petition has been preferred by the applicant/husband being aggrieved with the order dated 07.02.2020 passed by the Principal Judge, Family Court, Siwan in Maintenance Case No. 59 of 2015 whereby and whereunder, the learned Family Court allowed the application of O.P-wife filed under Section 125 of Cr.P.C and directed the applicant/petitioner to pay a monthly maintenance of Rs. 5,000/- to the O.P Wife from the date of submission of application i.e. 19.02.2016.

3. Undisputedly, the O.P is legally wedded wife of the petitioner and presently she is residing separately in her Maika.

4. Learned counsel for the petitioner submits that since, the O.P-wife is residing separately without any sufficient



cause therefore, she is not entitled to get any maintenance amount from the petitioner but, this aspect has not been considered by the Family Court while deciding the matter. He further argued that as of now, the O.P-wife is working as a teacher in government school and getting a salary of about Rs. 40,000/- monthly therefore, on this ground also, the impugned order is liable to be set aside.

5. Learned counsel for the O.P-wife opposes the argument made by the counsel for the petitioner.

6. Perused the impugned judgment as well as documents annexed with the petition and other materials available on record.

7. Perusal of the impugned order clearly shows that in her statement recorded before the Family Court, the O.P-wife categorically stated that after the marriage she has been subjected to cruelty on account of demand of dowry and for that, Panchayat was also conveyed. The above statement of O.P-wife regarding meeting of Panchayat is not rebutted during her cross-examination and the petitioner himself admitted the fact of said Panchayat. Impugned order further shows that on the basis of report made by the O.P-wife and criminal proceeding under Section 498A of IPC is also pending against the petitioner,



therefore, on the basis of material available on record, the learned Family Court rightly arrived on the conclusion that O.P-wife is residing separately with sufficient cause.

8. With regard to the amount of maintenance is concerned, considering the material available on record and present price index the said amount i.e Rs. 5,000/- monthly also appears to be just and proper.

9. However, with regard to the argument raised by the counsel for petitioner with regard to the present working of the O.P-wife is concerned, petitioner is free to make an application under Section 127 of Cr.P.C before the concerned Family Court for modification/cancellation of the maintenance order on that ground.

10. With the aforesaid observation, this revision petition is dismissed at Admission stage itself.

(Arvind Singh Chandel , J)

Raj Ranjan/-

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