

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.71 of 2021

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

RAJENDRA PRASAD RAHI @ RAJENDRA KUMAR Son of Late Ram Chandra Yadav Permanent Address R/o Village - Dirawana Tola, Chamari Bigha, P.S.- Bodh Gaya, District - Gaya (Bihar)

... .. Petitioner

Versus

1. The State Of Bihar
2. Savita Kumari Wife of Rajendra Kumar Rahi @ Rajendra Kumar R/o Village - Dirawana Tola, Chamari Bigha, P.S.- Bodh Gaya, District - Gaya (Bihar) At present R/o Mohalla - Delha, Banda Bigha, P.S.- Delha, District - Gaya (Bihar)

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Sunil Kumar Yadav, Advocate
For the State	:	Mr. Upendra Kumar, APP
For O.P. No. 2	:	Mr. Rajesh Ranjan, Advocate Mr. Mohammad Farooq, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

11 11-11-2024 The present Criminal Revision petition has been preferred by the petitioner against the order dated 24.01.2020 passed by learned Principal Judge, Family Court, Gaya in Miscellaneous Case No. 97 of 2012 filled under Section 125 Cr.PC, whereby the petitioner/husband has been directed to pay maintenance to Opposite Party No. 2/wife @ 10,000/ per month.

2. I heard learned counsel for the petitioner, learned APP for the State and learned counsel for the O.P. No. 2/wife.

3. Learned counsel for the petitioner submits that impugned order is not sustainable either in law or on facts. He



further submits that the order has been made operative from the date of filing of the maintenance petition, whereas in view of Section 125 (2) Cr.PC, he should have given reasoning for such order because order generally becomes operative from the date of order and if the order has been made operative from the date of filing the petition, special reason should have been given by the learned Family Court, but the same is missing in the order. He further submits that as per the finding of the Court, the monthly income of the petitioner/husband is Rs. 60,000/- per month, as he is a Government Teacher and he is already paying Rs. 5,000/- per month in a criminal proceeding which is initiated for offence punishable under Section 498-A of the Indian Penal Code by the wife against the petitioner/husband. Hence, the quantum of the maintenance is excessive.

4. However, learned APP for the State and learned counsel for Opposite Party No. 2/wife defend the impugned order submitting that the quantum of the monthly maintenance is not excessive. In fact, it is on the lower side in view of monthly income of Rs. 60,000/- per month of the petitioner/husband and he having mother as only dependent upon him. They also submit that payment of Rs. 5,000/- in criminal proceeding is liable to be adjusted against the



maintenance order as passed by the impugned order. Hence, in effect, Opposite Party No. 2/wife is going to receive only Rs. 10,000/- per month towards her maintenance including Rs. 5000/- as ordered in the criminal proceeding. Hence, the amount is not excessive in view of the income of the petitioner/husband.

5. They further submit that as per Section 125 (2) Cr.PC, the Family Court is at liberty to make the maintenance order operative, either from the date of order or from the date of filing of the petition. There is no statutory provision under Section 125 (2) Cr. PC, which requires the Family Court to give special reasons for making the order operative from the date of filing of the petition. They also refer to and rely upon one judicial precedent, namely, **Shail Kumari Devi & Anr. Vs. Krishan Bhagwan Pathak, (2008) 9 SCC 632**, as per which, for awarding maintenance from the date of application, only express order is necessary and no special reason is required to be recorded by the Court. They further submit that as per the evidence on record, neglect of the Opposite Party No. 2/wife and her inability to maintain herself was right from the date of filing of the petition. Hence, there is no illegality or impropriety in the impugned order, whereby learned Family Court has directed the order to be operative from the date of filing of the



petition.

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

7. I find that monthly income of the petitioner/husband has been found to be Rs. 60,000/- per month as a Teacher in Bihar Government School and he has only mother as a dependent upon him. There is no child born out of the wedlock and there is no evidence in support of the claim that Opposite Party No. 2/wife has any means to sustain herself. Neglect of the wife by the husband is also apparent on record. In view of **Shail Kumari Devi** (Supra), it is also not mandatory for the Family Court to give special reasons to make the order operative since the filing of the maintenance petition.

8. In view of the aforesaid facts and circumstances of the case, I find that there is no illegality or impropriety in the impugned order.

9. Accordingly, the present Criminal Revision petition is dismissed.

10. At this stage, learned counsel for the Opposite Party No. 2/wife submits that in pursuance of the impugned order, petitioner/husband has not paid the whole due amount. In view of such submission, it would be relevant to point out that



as per Section 125 (3) Cr.PC, O.P. No. 2/wife is at liberty to move the Family Court concerned by way of filing the appropriate application for enforcement of the impugned order, if so advised and if such application is filed, learned Family Court is requested to expedite the enforcement proceeding in view of the urgent nature of the maintenance matter.

(Jitendra Kumar, J.)

Ramesh/Shoaib

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