

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.568 of 2019

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

Abhay Kumar Mandal @ Bikki Mandal Son of Nand Kishore Mandal @
Papul Mandal Resident of Village - Chandpur, P.S.- Dhoraiya, Distt - Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Devi Wife of Abhay Kumar Mandal @ Bikki Mandal, D/o Umesh Mandal Resident of Village - Lokra, P.S.- Barahat, Distt- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Respondent/s : Mrs. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 16-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Judgment and order dated 04.02.2019 passed in
Misc. (Maintenance) Case No.18 of 2018 under Section 125 of
the Cr.P.C. by the learned Principal Judge, Family Court, Banka
is under challenge by the opposite party/husband as petitioner in
the instant revision.

3. It is submitted by the learned advocate for the
petitioner that the opposite party no.2 deserted him without any
justiciable cause and treated him with cruelty. He filed a suit for
divorce on the ground of cruelty and desertion against his wife.
The wife/opposite party no.2 after getting summons of the said



suit, filed a case on police report under Section 498A of the I.P.C. alleging that her husband and other matrimonial relations treated her with physical and mental cruelty by various wages and means. Simultaneously, she filed an application under section 125 of the Cr.P.C. stating inter-alia that she was not in a position to stay with her husband as he had illicit relationship with his sister-in-law (wife of his elder brother).

4. The learned advocate for the petitioner further submits that the petitioner was acquitted of the charge under Section 498A of the I.P.C. in the meantime. Thus, opposite party no.2 failed to prove that she was treated that cruelty. Moreover, it is submitted by the learned advocate for the petitioner that a bald and obnoxious allegation has been made against him implicating his sister-in-law.

5. From the facts recorded above, it is absolutely clear to say that the relationship between the wife and the husband is not only sour, but inimical. Admittedly, the petitioner filed a suit for divorce, the said suit is pending. It is not possible for the wife to stay with her husband in her matrimonial home, when a suit for divorce has been filed against her. There is no evidence that the petitioner used to pay maintenance allowance to the opposite party no.2.



6. Considering the amount of maintenance allowance, this Court is of the view that the said amount is not at all excessive but absolutely proper for the need of a lady to meet her day to day expenses. Therefore, I am inclined to interfere with the impugned order but it is made clear that if any application is filed by the opposite party no.2 in the suit for divorce praying for alimony *pendente lite* the order of maintenance allowance shall be taken into consideration in order to determine alimony, if any, in future.

7. Accordingly, the instant revision application stands disposed of.

(Bibek Chaudhuri, J)

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