

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.631 of 2019

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

ANIL KUMAR Son of Sri Sonelal Sah Resident of Village - Begusarai, P.S.-
Bachhwara, Distt - Begusarai.

... .. Petitioner/s

Versus

1. SEEMA KUMARI Wife of Sri Anil Kumar Resident of Village - Collage
Chowk, Purnia, P.S.- K. Hat, Distt - Purnia.
2. Arpana Kumari D/o Sri Anil Kumar (Minor is represented through her
natural guardian mother Seema Kumari) Resident of Village - Collage
Chowk, Purnia, P.S.- K. Hat, Distt - Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek, Advocate
For the Respondent/s : Mr. Md. Matloob Rab, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 30-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner/husband has assailed legality, validity and propriety of an order passed in Maintenance Case No. 4 of 2015 on 28.01.2019 by the learned Principal Judge, Family Court, Purnia on the ground that the petitioner voluntarily refused to stay with her husband, therefore, when the petitioner has refused to live happy conjugal life with her husband she is not entitled to get any maintenance.

3. In support of his contention, learned advocate for the petitioner submits that in Page-8, Para-12 of the impugned judgment the Trial Court specifically recorded that the opposite party no.1 refused to stay with the petitioner at her matrimonial



home for the reason of imparting education to her minor daughter/opposite party no.2. Moreover, it is submitted by the learned advocate for the petitioner with reference to Annexure-1 that the petitioner filed a suit for restitution of conjugal rites against the opposite party and the said suit was decreed even in execution the opposite party refused to returned her matrimonial home, therefore, she is not entitled to get any maintenance.

4. I have carefully perused the entire judgment and other materials on record. Marriage of the parties was solemnized under Hindu Rites and customs on 18.02.1999, it is alleged that on 01.09.2007, the petitioner and his family members poured kerosene oil on the body of opposite party no.1 to set her ab-ledge, the opposite party no.1 raised hue and cry which attracted local people they saved her. Over the said incident and alleging other incidence of physical and mental torture amounting to cruelty within the meaning of Section 498A of the I.P.C. a case is pending against the petitioner and other matrimonial relations at the instance of opposite party no.1. When a house wife is attempted to be killed by pouring kerosene oil and putting fire on her body and their demands matrimonial dispute between the parties which laid the opposite party no.1 to stay at her paternal home, such action cannot be



stated or regarded as voluntarily refusalal by the opposite party no.1 to stay with the petitioner. It is also submitted by the learned advocate for the petitioner that the petitioner probably has been acquitted from the charge under Section 498A of the I.P.C. from the Court below.

5. Be that time as it may, Section 125 of the Cr.P.C. is a proceeding of a summary nature and are initiated to enable destitute wife and children to get maintenance in speedy manner. When it is proved that the opposite party no.1 is the legally married wife of the petitioner and she resides separately, she is entitled to get maintenance, the decision of the Hon'ble Supreme Court in *Nagendraappa Natikar v. Neelamma* reported in *(2014) 14 SCC 452* may be relied on in this regard.

6. The learned advocate for the petitioner has not raised any grievance with regard to quantum of maintenance.

7. In view of the above discussion and on perusal of the impugned order, I do not find any illegality in the impugned order and accordingly, the impugned order is affirmed, the instant revision is thus, dismissed.

(Bibek Chaudhuri, J)

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