

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 645 of 2019**

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

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JITENDRA MAHTO @ JITENDRA KUMAR Son of Mahendra Mahto
Resident of Belchi, P.S.- Ariyari, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Soni Devi Wife of Jitendra Mahto, Daughter of Sita Ram Mahto Resident of Bhojdi, P.S.- Ariyari, District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Bipin Kumar, Advocate
For the S t a t e	:	Mr Anand Mohan Prasad Mehta, APP
For Opposite Party No 2 :		M/s Ajay Kr Pandey, Shyama Rani, Sandeep Kr, Advocates

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CORAM: HONOURABLE MR JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 24-04-2024

The instant revision application is directed against an order of maintenance dated 23rd April, 2019 passed in Maintenance Case No 52 (M) of 2017 by the learned Principal Judge, Family Court, Sheikhpura directing the petitioner to pay Rs 6,000/- per month to Opposite Party No 2 and Rs 4,000/- per month for the maintenance of two children who have been staying with Opposite Party No 2, totalling Rs 10,000/-.

2 It is submitted on behalf of the petitioner that during the pendency of the instant revision application, the petitioner and Opposite Party No 2 were directed to make a settlement of their



dispute through mediation. The case was sent to the Patna High Court Mediation Center for settlement. However, the learned Mediator returned the record of the case stating inter alia that in spite of his best efforts, the parties were not agreeable to resolve their dispute through the process of mediation.

3 It is submitted by the learned Advocate for the petitioner that marriage of the petitioner was solemnized with Opposite Party No 2 in the year, 2000. After 17 years of marriage, Opposite Party No 2 filed an application under Section 125 of the Criminal Procedure Code praying for maintenance. It is submitted by the learned Advocate for the petitioner that from the wedlock, Opposite Party No 2 gave birth to four children. Two children are residing with the petitioner and other two children are residing with Opposite Party 2. Learned Advocate for the petitioner also submits that for the future development and prosperity of both the children, Opposite Party No 2 may be directed to lead happier peaceful conjugal rights with the petitioner. The petitioner is ready to swear an affidavit before this Court stating that he would not inflict any torture upon his wife. He will treat her with proper dignity and care and he will maintain his wife and children in his house. It is also submitted by the learned Advocate for the petitioner that if Opposite Party No 2 remains separately from the



petitioner, the life of the petitioner as well as his two sons would be almost paralyzed and devastated.

4 Learned Advocate for Opposite Party No 2, on the other hand, submits that Opposite Party No 2 was compelled to leave her matrimonial home after being seriously tortured and assaulted by the petitioner. She does not want to stay with her husband any more out of fear of such torture and assault as a result the mediation failed.

5 With regard to the merit of the case, it is submitted by the petitioner that the petitioner has only one *bigha* of land and he has no financial capacity to pay Rs 10,000/- per month towards maintenance to Opposite Party No 2. it is also submitted by him that the contention of Opposite Party No 2 that the petitioner has Hardware shop, rice mill etc is absolutely false.

6 Having heard the learned Advocates for the parties and on perusal of the materials on record, this Court has no other alternative option but to hold that under the facts and circumstances of this case, amicable settlement between the petitioner and Opposite Party No 2 is not possible.

7 On the issue of quantum of maintenance, it is found from the impugned Judgment that the learned Principal Judge assessed, appreciated and scanned the evidence adduced on behalf



of the petitioner as well as Opposite Party No 2 and came o a finding with regard to the income of the petitioner. Sitting in reviiion, this Court is not in a position to reassess the evidence on record to take a contrary view on factual aspect of the matter. On careful perusal of the impugned judgment, this Court finds that there is no illegality or impropriety in the impugned order dated 23rd April, 2019 passed in Maintenance Case No 52 (M) of 2017 by the learned Principal Judge, Family Court, Sheikhpura.

8 Accordingly, I do not find any merit in the instant revision application and the same is dismissed on contest. The order passed by the learned Principal Judge, Family Court, Sheikhpura in Maintenance Case No 52 (M) of 2017 on 23rd April, 2019 is affirmed.

(Bibek Chaudhuri, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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