

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1223 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Kaimur (Bhabua)

-
1. Krishna Kant Dubey Son of Sri Vinod Shankar Dubey Resident of Village-Raja-ke-Akorhi, P.O-Nauhatta, P.S-Belaon, District-Kaimur (Bhabua).
 2. Surya Kant Dubey Son of Sri Vinod Shankar Dubey Resident of Village-Raja-ke-Akorhi, P.O-Nauhatta, P.S-Belaon, District-Kaimur (Bhabua).
 3. Vinod Shankar Dubey Son of Late Badri Dubey Resident of Village-Raja-ke-Akorhi, P.O-Nauhatta, P.S-Belaon, District-Kaimur (Bhabua).
 4. Kaushalya Devi Wife of Sri Vinod Shankar Dubey Resident of Village-Raja-ke-Akorhi, P.O-Nauhatta, P.S-Belaon, District-Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sweta Kumari Wife of Krishna Kant Dubey Resident of Village-Raja-ke-Akorhi, P.O-Nauhatta, P.S-Belaon, District-Kaimur At Present D/o Shashi Bhushan Pandey, P.O-Kabilashpur, P.S-Durgawati, District-Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravishankar Sahay, Advocate Mr. Rakesh Kumar Mishra, Advocate Mr. Chandra Mohan Jha, Advocate
For the Respondent/s	:	Mr. Jai Narain Thakur, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 07-02-2024 Heard learned advocate for the petitioners and learned
Additional Public Prosecutor for the State.

2. An order of interim monitory relief passed under
Section 23 of the Protection of Women from Domestic Violence
Act, 2005 (hereinafter described as the 'said Act') affirmed by
the Court of Appeal is challenged in the instant revision.

3. The learned advocate for the petitioners at the
outset refers to the report of the Protection Officer attached to



Mahila Helpline, District Administration, Kaimur (Bhabhua). The Protection Officer in her report dated 23.11.2016 stated that marriage of the petitioner no.1 was solemnized on 05.05.2011. The opposite party no.2 left her matrimonial home within one year of marriage. No case of domestic violence was cited on local inquiry by the Protection Officer in her report. It is found on inquiry by the Protection Officer that the younger brother of the petitioner no.1 has been pursuing his studies in Varanasi in the State of U.P. The father of the petitioner no.1 was a Teacher of a school in nearby village. The petitioner no.3-Vinod Shankar Dubey was also a teacher and the petitioner no.1 maintains his livelihood working as a priest. He has some landed property. All the family members of the petitioner are living in joint mess. The Protection Officer did not find any incident of domestic violence perpetrated upon the aggrieved person by the opposite party no.2. On the other hand, it was learnt from local villagers that the opposite party no.2 has very deep relation with his distant uncle and she very often without any permission from the members of the matrimonial home went away with the said uncle.

4. Section 3 of the Protection of Women from Domestic Violence Act, 2005 defines domestic violence. Section 3 runs



thus :-

“3. Definition of domestic violence.— For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.-For the purposes of this section,-

(i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;



(iii) “verbal and emotional abuse” includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;

(iv) “economic abuse” includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.”

5. There is no prima-facie allegation against the



petitioner that he caused harm or injury that in injured the health, safety, life, limb or well being, whether mental or physical of the aggrieved person. The opposite party no.2 made an allegation that she was being tortured by the petitioner no.1 and his family members in order to meet unlawful demand of dowry or property or valuable security. Thus, the opposite party no.2 has made out a prima-facie case of demand of dowry. It is absolutely true and I am in conformity with the learned advocate for the petitioner that all such allegations did not get support of the inquiry report of the Protection Officer which is absolutely required in order to grant interim monitory relief.

6. However, Section 23(2) states that if the Magistrate is satisfied that an application prima-facie discloses that the respondent is committing or has committed any act of domestic violence or that there is likelihood that the respondent may commit an act of domestic violence he may grant an ex-parte order of interim maintenance.

7. The learned Magistrate prma-facie found that the petitioner discloses a case of harassment on demand of dowry. Therefore, the Trial Court granted a very meager amount of interim maintenance of interest at the rate of Rs.2,000/- per month. The said order was affirmed by the learned Principal



Judge, Family Court, Kaimur at Bhabua in Criminal Appeal
No.31 of 2017 on 01.07.2019.

8. On perusal of the impugned orders, I do not find any reason of interference. However, considering the inquiry report of the Protection Officer, the Trial Court is directed to dispose of the instant application under the Domestic Violence Act positively within four months from the date of this order.

9. With the above order, the instant revision is disposed of.

(Bibek Chaudhuri, J)

mdrashid/-

U		T	
---	--	---	--

