

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.809 of 2022

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

MD. JAHANGIR S/o Late Fakir Mohammad R/v- Gehunwa Ward No. 6,
P.S.- Jalalgarh, District- Purnea

Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. RUMANA KHATOON W/o Md. Jahangir D/o Soleman R/v- Kursail, Ward No. 3, Post- Kursail, P.S.- Mahalgown (Joki Hat), District- Araria

.. ... Respondent/s

Appearance :

For the Petitioner/s : Mr.Nadimul Hasan,Adv
For the State : Mr.Anuj Kumar Shrivastava,APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

4 26-09-2024 Heard learned counsel for the petitioner on admission.

2. This revision petition has been preferred by the petitioner husband being aggrieved with the order dated 07.09.2022 passed in Maintenance Case No. 59/2021 whereby and whereunder the learned Family Court allowed the application under Section 125 of Cr.PC filed by O.P. No. 02-wife and directed the petitioner to pay a monthly maintenance of Rs. 5000/- to the O.P. No.02-wife from the date of submission of application i.e. 01.02.2021.

3. Undisputedly, O.P. No. 02 is the legally wedded wife of the petitioner and she is residing separately. Perusal



of the impugned order further shows that before the Family Court despite service of notice the petitioner did not appear therefore, the impugned order which is an *ex-parte* order has been passed against him. Perusal of the impugned order further shows that before the Family Court it was stated by the O.P. No.02-wife that petitioner/husband and his family tortured her on account of demand of dowry and for that a report was made by the O.P. No.02-wife. A case registered under Section 498(A) of I.P.C. is already pending against in the petitioner husband. The statement of the O.P. No.02-wife is not rebutted. Thus, considering the above unrebutted statement of the O.P. No. 02-wife and her witnesses, the Family Court rightly arrived on the conclusion that she is residing separately with sufficient cause.

4. Perusal of the impugned order further shows that on the basis of unrebutted statement of the O.P. No. 02-wife and other witnesses the learned Family Court directed the petitioner to pay a monthly maintenance of Rs. 5000/-. The amount which has been fixed by the learned Family Court also appears to be just and proper.

5. Thus, there is no infirmity or illegality in the



impugned order passed by the learned Family Court. Therefore, the petition is dismissed at the stage of Admission itself, having no merit.

6. During the course of argument, the learned counsel for the petitioner has shows the order dated 01.12.2022 passed by a Co-ordinate Bench of this Court passed in Criminal Miscellaneous No. 14521/2022, whereby this Court while allowing the application under Section 438(2) of Cr.P.C. filed by the petitioner directed him to pay a monthly maintenance of Rs. 6000/- to the O.P. No.02-wife from the month of December, 2022. Before passing of the said order dated on 01.12.2022, the learned Family Court had already passed the impugned order dated 07.09.2022. This fact has not been informed by the learned counsel for the petitioner before the Co-ordinate Bench of this Court while deciding the said Criminal Miscellaneous. Thus, petitioner is given liberty to make appropriate application before the Co-ordinate Bench of this Court to recall the order dated 01.12.2022 if he so advised.

7. However, liberty is also granted to the petitioner to make an application under Section 127 of Cr.P.C. for



alteration of the impugned order on the ground of order passed by Co-ordinate Bench of this Court as referred earlier.

8. With the above said observations, this petition is dismissed.

(Arvind Singh Chandel , J)

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