

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1441 of 2019

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

Md. Sikandar S/O Md. Saim @ Md. Saiem R/O Mohalla- Agarpur Tola,
Sikandarpur, Agarpur, P.S.- Lodipur (Gauradih), Distt.- Bhagalpur, Bihar-
813210

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bibi Najo D/o Md. Noor Resident of Imampur, P.S.- Habibpur, Distt.- Bhagalpur
3. Md. Raiyan @ Lal Babu S/O- Md. Sikandar Resident of Imampur, P.S.- Habibpur, Distt.- Bhagalpur
4. Bibi Sajma D/O- Md. Sikandar Resident of Imampur, P.S.- Habibpur, Distt.- Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Geeta Kumari Jha, Advocate
For the State	:	Mr. Sanjay Kumar Tiwary, APP
For the O.P. No.2 to 4	:	Dr. Manoj Kumar, Advocate
		Mr. Keshari Sharan, Advocate
		Ms. Sweety Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 05-12-2024 The present petition has been preferred by the petitioner/husband against the final maintenance order dated 03.10.2019 passed by learned Principal Judge, Family Court, Bhagalpur in Misc. (Maintenance) Case No. 158 of 2012, whereby the petitioner/husband was directed to pay Rs.3,000/- per month to his wife and Rs.1,000/- to both the children each.

2. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel for the O.P. Nos. 2 to 4.

3. Learned counsel for the petitioner submits that the



impugned order is not sustainable in the eye of law, in view of quantum of maintenance awarded to the O.P. No.2 and her two minor children. To substantiate her submission, she submits that petitioner is working as a labour in a tailoring shop and earns Rs.200/- per day. She also submits that the wife has left the matrimonial home without any rhyme and reason and hence, the petitioner/husband has filed one petition for restitution of conjugal right before the Family Court, Bhagalpur.

4. *Per contra*, learned counsel for the O.Ps. submits that there is no illegality or infirmity in the impugned order. There was additional demand of dowry and on account of non-fulfillment of the same, the wife/O.P. No.2 was subjected to cruelty by the husband/petitioner and that is why the O.P. No.2/wife has filed one criminal complaint bearing No. 1712 of 2011 for offences punishable under Sections 498A, 341, 323 and 307 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act, which is still pending consideration. He also submits that petition of the restitution of conjugal rights filed by the petitioner, pending before the Family Court, is being contested by the wife and that is still pending consideration in the Court. He further submits that as per the evidence on record, the petitioner has monthly income of Rs.1000/- from his



personal property as well as Rs.15,000/- from tailoring and hence, learned Court below has rightly directed the petitioner for payment of Rs.5,000/- to the wife towards her maintenance as well as the maintenance of two children, who are living with her.

5. I considered the submissions advanced by the parties and perused the materials on record.

6. I find that there is no dispute regarding the marriage between the petitioner and the O.P. No.2. There is also no dispute regarding the birth of two children out of the wedlock between the parties. However, there is a dispute regarding reason behind the wife living separately from the petitioner/husband and the income of the petitioner/husband.

7. As per the evidence on record, learned Family Court has held that the monthly income of the petitioner/husband is Rs.16,000/- from tailoring as well as personal property and he has duty to maintain his wife and children. Moreover, it has been also found by the learned Family Court that as per the evidence, the wife has been subjected to cruelty by the petitioner/husband and that is why, she is living separately.

8. In view of the aforesaid facts and circumstances, I



find that learned Court below has committed neither error of any law nor any perversity of finding of facts.

9. Hence, the present petition is liable to be dismissed. Accordingly, the present petition is dismissed.

(Jitendra Kumar, J.)

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