

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.376 of 2022

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

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Chandan Suman Karan Son Of Shivnath Prasad Resident Of Sisauni, P.S.
Basopatti, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Neha Shrivastava Wife of Chandan Suman Karn, Daughter of Late Brij Mohan Prasad Shrivastava Resident of Village - Nariyar, Ward No. 7, P.S. - Saharsa, District - Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harshwardhan Sahay, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the O.P. No. 2	:	Mr. Pawan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 27-03-2025

The present Criminal Revision petition has been preferred by the petitioner against the final order dated 21.04.2022, passed by learned Principal Judge, Family Court, Saharsa in Maintenance Case No. 26 of 2020, whereby learned Family Court had directed the petitioner-husband to pay Rs. 10,000/- per month to his wife/Neha Shrivastava, who is O.P. No. 2 herein.

2. The factual background of this case is that O.P. No. 2/Neha Shrivastava filed one maintenance petition under Section 125 Cr.PC in the Court of Principal Judge, Family Court, Saharsa against the petitioner herein, Chandan Suman Karan for maintenance @ Rs. 15,000/- per month.

3. As per averment made by O.P. No. 2/Neha Shrivastava in her petition, she is legally wedded wife of Chandan Suman Karan as their marriage was solemnized on 05.07.2018 as per Hindu Rites and Customs. Subsequent to the marriage, she joined the matrimonial home of her husband. However, marriage started running into rough weather on account of cruelty on behalf of the petitioner-husband for non-fulfillment of additional demand of dowry and one Criminal Case bearing Saharsa Mahila P.S. Case No. 54 of 2019 was filed by the wife/Neha Shrivastava on 09.07.2019 and ultimately, she was ousted from the matrimonial home and she is living at her maike. She has no child out of the wedlock. She has further stated that she has no source of income and her husband despite having sufficient income, is neglecting to maintain her. It is further stated that her husband runs a book shop along with his father, earning Rs. 80,000/- to Rs. 90,000/- per month.

4. On notice, the petitioner-husband appeared in the maintenance proceeding and filed his show cause contesting the maintenance petition filed by his wife. In his show cause, he has admitted that O.P. No. 2/Neha Shrivastava is his legally wedded wife. However, he has claimed that she is not entitled to get any maintenance. He has also denied that there was any demand of

dowry and torturing therefor. He has also claimed that in fact the conduct of his wife towards him and his family members was cruel in nature and she has left the matrimonial home on her own in his absence and started living with her brother-in-law in Patna. He has also stated that criminal case filed against him is false and fabricated. He has also claimed that his wife works in a private school, earning Rs. 8,000/- per month. He also submits that he has no source of income and he is dependent upon his father, who runs a books stall, and he helps him whenever required in running the book shop. He has denied that he has monthly income of Rs. 80,000/- to Rs. 90,000/-. In criminal case, due to fear of police, he had agreed to pay Rs. 10,000/- per month towards her maintenance and executed a bond before the police. His wife has also filed one matrimonial petition under Section 9 of the Hindu Marriage Act. He also wants to keep his wife in his matrimonial home with all love and dignity.

5. During trial, O.P. No. 2/wife examined herself as P.W.-1 and her mother, Indu Shrivastava as P.W.-2 in support of the maintenance petition. Petitioner herein has also examined himself as O.P.W.-1 and his father, Shivnath Prasad, as O.P.W.-2.

6. Neha Shrivastava, in her testimony, has supported her maintenance petition against her husband/Chandan Suman

Karan reiterating the statements as made in her petition. In her cross-examination, she has reiterated her claim that her husband has monthly income of Rs. 80,000/- to Rs. 90,000/- from his books stall and her husband has agreed to pay Rs. 10,000/- per month by executing a personal bond before the police in the criminal case. She has denied the suggestion that she is teaching in a school and has source of income. She has also denied the suggestion that she does not want to live with her husband.

7. The maintenance case is also supported by P.W.-2, Indu Shrivastava, who is mother of O.P. No. 2/Neha Shrivastava.

8. Chandan Suman Karan, in his evidence, who is petitioner herein, has also reiterated the statements as made in his show cause. In his cross-examination, he has admitted that he has stated before the police that he would pay Rs. 10,000/- to his wife towards her maintenance.

9. The evidence of Chandan Suman Karan is also supported by O.PW-2, Shivnath Prasad. In his cross-examination, he has admitted that he runs a book stall and his son, who is petitioner herein, supports in his business and monthly income from the book business is Rs. 20,000/- to Rs. 30,000/-.

10. After perusal of the evidence and relevant materials on record, learned Family Court has allowed the maintenance petition, directing the petitioner-husband to pay Rs. 10,000/- per month to his wife. However, being aggrieved by this order, the present petition has been filed by the petitioner/husband.

11. I heard learned counsel for the parties.

12. Learned counsel for the petitioner submits that learned Family Court has not properly appreciated the evidence on record and erroneously directed the petitioner to pay Rs. 10,000/- per month. He further submits that the petitioner is also directed to pay Rs. 5,000/- per month to his wife by Patna High Court in a Anticipatory Bail petition towards her maintenance.

13. He further submits that O.P. No. 2/wife has not been able to prove the income of the petitioner-husband by any cogent evidence, except the oral testimony that the petitioner runs a book stall along with his father and has monthly income of Rs. 80,000/- to 90,000/-. He also submits that O.P. No. 2/wife is educated and doing a private tuition in a school and earning Rs. 8,000/- per month.

14. However, learned APP for the State and learned counsel for the O.P. No. 2 defend the impugned order

submitting that there is no illegality or infirmity in it and hence, the present petition is liable to be dismissed. Learned Family Court has passed the impugned order after properly appreciating the evidence on record.

15. They further submit that O.P. No. 2/wife has no source of income. The allegation made by the petitioner-husband that O.P. No. 2/wife is earning Rs. 8,000/- per month from her tuition is false and fabricated and no proof has been adduced during trial in support of such allegation. As per record, O.P. No. 2/wife has no source of income, whereas there is sufficient materials on record to show that the petitioner herein runs a book stall along with his father and as per the testimony of O.P. No. 2 herein and her mother, the petitioner-husband has monthly income of Rs. 80,000/- to 90,000/- per month. Moreover, O.P. No.2, Shivnath Prasad has clearly admitted in his cross-examination that he runs a book stall and his son, who is petitioner herein, helps in that business and there is monthly income of Rs. 20,000 to Rs. 30,000/- from the book business.

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

17. I find that there is no dispute regarding legal marriage between Neha Shrivastava and Chandan Suman Karan.

I also find that there is sufficient materials on record to show that O.P. No. 2/wife has sufficient reason to live separately, because there is a criminal case filed by wife against the petitioner-husband, which is pending consideration of the Court and the petitioner-husband has not filed any petition under Section 9 of Hindu Marriage Act, let alone the same being allowed. I further find that no source of income of Neha Shrivastava has been proved by her husband.

18. As such, I find that Neha Shrivastava has no source of income and she is living at her maikie on account of cruelty and she is not getting any maintenance amount from her husband, whereas as per the materials on record, I find that he has source of income and admittedly, he runs a book stall with his father and admittedly, as per admission of his father, there is Rs. 20,000/- to 30,000/- income from book business, though as per claim of Neha Shrivastava, the monthly income from the book stall is Rs. 80,000/- to 90,000/- per month.

19. Considering the aforesaid facts and circumstances, I find that the payment of Rs. 10,000/- per month by the petitioner-husband to his wife towards maintenance would be on higher side. Hence, in the interest of justice, this amount is reduced by Rs. 2,500/- per month. Accordingly, the petitioner is

directed to pay Rs. 7,500/- per month to his wife towards her maintenance.

20. It is also clarified that the maintenance amount directed to be paid to Neha Shrivastava by her husband @ Rs. 5,000/- per month is also liable to be adjusted in this amount and this maintenance payable by the husband-petitioner to his wife will be from the date of filing of the maintenance petition i.e. 03.06.2020.

21. It is also clarified that the whole arrear amount, if any, must be paid by way of five equal monthly installments and in case, there is default on the part of the petitioner-husband to pay monthly installments, learned Family Court is directed to take coercive measure upon filing of the petition under Section 125(3) Cr.PC by Neha Shrivastava.

22. Accordingly, the present petition is allowed in part.

(Jitendra Kumar, J.)

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AFR/NAFR	N.A.F.R
CAV DATE	N/A
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