

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.345 of 2023

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

Prabhat Kumar @ Prabhat Kumar Thakur @ Bhanu, Son of Late Ram Vilash Thakur Resident of Marwari Dharmashala Road, Behind Kushumwati Kanya Middle School, Near Dalsingh Sarai Kuwan, Main Bazar, ward no. 03, Police station - Dalsingh Sarai, Distt. - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Gauri Kumari D/o Amar Nath Thakur Resident of Marwari Dharmashala Road, Behind Kushumwati Kanya Middle School, Dalsinghsarai Kuwan, Main Bazar, ward no. 03, Police Station - Dalsingh Sarai, Distt. - Samastipur At present residing at Mohalla Ratanpur, ward no. 20, Police Station - Town, Distt.- Begusarai, Pin - 851101

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Adv.
For the Respondent/s : Mr. Ram Naresh Ray, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

13 28-04-2025 This is an application under Section 19 (4) of the Family Courts Act challenging correctness, legality and propriety of an order passed in Maintenance Case No. 135M of 2019 on 27th January, 2023, upon an application under Section 125 of the Cr.P.C. filed by the opposite party no. 2, by the Principal Judge, Family Court at Begusarai, directing the present petitioner to pay monthly maintenance allowance of Rs. 7,000/- per month from the date of filing of the application and one time litigation cost of Rs. 7500/-.

2. Marriage between the parties is not disputed. The



petitioner is the legally wedded husband of opposite party no. 2. It is also not in dispute that opposite party no. 2 does not stay with the petitioner and there are multiple litigations between the parties.

3. Learned Advocate on behalf of the petitioner has pointed out that after few days of marriage, the opposite party no. 2 filed a Criminal Case under Section 498(A) and other coordinate provisions of the I.P.C. Secondly, she voluntarily on her own accord left her matrimonial home. The present petitioner with a view to stay with the opposite party no. 2 instituted a case under Section 9 of the Hindu Marriage Act, praying for restitution of conjugal life. The opposite party no. 2 did not agree to stay with the petitioner and on the contrary, she filed a suit for divorce against the petitioner. Therefore, conduct of opposite party no. 2 is not conducive for allowing maintenance allowance in her favour.

4. Learned Advocate on behalf of the petitioner further submits that the trial court without considering any documentary evidence, on his own, assessed monthly income of the petitioner as Rs. 30,000/- per month approximately. The petitioner in course of trial, clearly stated that he is a daily wage labourer and earns Rs. 500/- per day. Therefore, the assessment



of the trial Court, with regard to income of the petitioner and the quantum of maintenance allowance is incorrect, illegal and invalid and this requires judicial intervention by this Court.

5. Learned Advocate on behalf of opposite party no. 2, on the other hand, submits that opposite party no. 2 was subjected to physical and mental torture within few days of marriage. Failing to bear such torture, she was compelled to leave her matrimonial home. She has also filed a suit for divorce. If a married lady is physically and mentally tortured in the matrimonial home and she is compelled to leave the accommodation at her matrimonial home, such act of the wife cannot be termed as voluntary leaving from the matrimonial home. The opposite party no. 2 was forced and tortured and humiliated to leave her matrimonial home.

6. Learned Advocate for the petitioner next submits that opposite party no. 2 has independent source of income as she runs a business of Beauty Parlour.

7. It is needless to say that a maintenance proceeding under Section 125 of the Cr.P.C. is disposed of as a summary proceeding. The parties did not dispute their marital relationship and the opposite party no. 2 has been staying separately from the petitioner. No evidence is forthcoming that during her



separate stay, the petitioner paid even a single farthing for maintenance of the wife. Therefore, the opposite party no. 2 is entitled to get maintenance allowance from the petitioner.

8. Now comes the question as to the quantum of maintenance which the petitioner is obliged to pay in favour of opposite party no. 2. During trial, opposite party no. 2 and his brother deposed as witness nos. 1 and 2 on behalf of the applicant. Both of them stated that the petitioner earns Rs. 30,000/- approximately per month.

9. On the contrary, it is deposed by the petitioner that his daily income is Rs. 500/- on an average. If the petitioner's contention is to be accepted, then his monthly income ought to be assessed as Rs. 15,000/- per month. The opposite party no. 2 is the wife of the petitioner. A wife is the best and intimate person, who knows the income of her husband. It is her special knowledge, being the wife of the petitioner, and on the basis of such special knowledge, she deposed during trial of the case that the petitioner earns Rs. 30,000/- per month. Except a counter oral evidence, the opposite party failed to produce any document in support of his income as a daily wage earner.

10. For the reasons stated above, I do not find any illegality or material irregularity in the order passed by the



learned Principal Judge, Family Court at Begusarai, so far as the quantum of maintenance is concerned.

11. Accordingly, the instant criminal revisional application being devoid of any merit and dismissed.

(Bibek Chaudhuri, J)

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