

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.859 of 2019

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

Rajesh Chaubey Son of late Akshayabar Chaubey, Resident of village-
Basuhari, P.S.- Belaon, District- Kaimur at Bhabhua

... .. Petitioner/s

Versus

1. Sunaina Devi wife of Rajesh Chaubey
2. Nidhi Kumari aged about 10 years (Minor) D/o Rajesh Chaubey
3. Sudhi Kumari aged about 10 years (Minor) D/o Rajesh Chaubey
All are R/o Village- Basuhari, P.S.- Belaon, District- Kaimur at Bhabhua,
presently residing at Village- Orgaon, P.S.- Bhagwanpur, District- Kaimur at
Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nagendra Dubey, Advocate
For the Respondent/s : Mr. Praveen Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

15 23-01-2025 The present revision petition has been preferred by

the petitioner against the impugned order dated 21.05.2019

passed by learned Principal Judge, Family Court, Kaimur at

Bhabhua, whereby learned Family Court has directed the

petitioner to pay Rs.4600/- per month to the O.P. No.1/Sunaina

Devi (wife) towards her maintenance as well as maintenance of

O.P. Nos. 2 and 3 who are minor daughters of the petitioner

herein.

2. The factual background of this case is that the wife

and two minor daughters, who are O.Ps. herein filed one

Maintenance Case bearing Maintenance Case No. 70M of 2017

before learned Family Court, Kaimur at Bhabhua for their



maintenance stating that marriage of O.P. No.1/Sunaina Devi was solemnized with the petitioner herein on 26.06.1999 and there was *Duragaman* in 2001 and thereafter O.P. No.1 joined the matrimonial home of petitioner and she got pregnant during her stay and gave birth to twin daughters, who are O.P. Nos. 2 and 3 herein. However, there was additional demand of dowry from the petitioner and on account of non-fulfillment of the same, she ousted from the matrimonial home and since then she had been living at her father's home along with two minor daughters. It is further stated that the Matrimonial Case No. 76 of 2017 was filed by the petitioner/husband in which O.P. No.1 appeared and on reconciliation she joined the matrimonial home of the petitioner but again she was ousted from the matrimonial home and since then she along with her minor daughters has been living at her parental home. It is further stated that the petitioner has ten bighas land and one *pucca* house and he is also Jeevika Mitra and he has annual income Rs.4,00,000/-, whereas the wife and daughters have no means to maintenance themselves and hence, Rs.10,000/- per month was prayed for towards their maintenance from the petitioner.

3. In the maintenance case, the petitioner appeared before the Family Court, but he has denied that he ever



committed any cruelty against his wife or ever demanded any dowry. He claimed that he is not liked by his wife and she is not ready to live with him and hence, he filed one matrimonial case for restitution of conjugal rights bearing Matrimonial Case No. 76 of 2017, in which there was mediation and on such reconciliation she joined his matrimonial home on 30.11.2017. But again she left his matrimonial home. He has further stated that he has only 25 decimal land and he is not a Jeevika Mitra. On the other hand, petitioner has claimed that his wife is educated and she does tuition earning Rs.5,000/- per month. She also does work of sewing earning Rs.10,000/- per month and her father is also a farmer and hence, his wife is able to maintain herself and her daughters.

4. During trial, the O.P. No.1 examined herself as well as two other witnesses in support of her petition, whereas petitioner herein also examined himself and two other witnesses to contest the maintenance petition of his wife and daughters.

5. During evidence the wife and her witnesses reiterated her statements regarding the income of her husband. Petitioner herein also reiterated his statement. However he has admitted during evidence that he has not seen any documents in regard to land of parents of his wife nor has he seen his wife



doing teaching or sewing. In his evidence, he has also not denied that he is not a Jeevika Mitra.

6. Hence after hearing both the parties and perusal of the material on record, learned Family Court passed the impugned order.

7. I heard learned counsel for the petitioner and learned counsel for the opposite parties.

8. Learned counsel for the petitioner submits that learned Family Court has failed to properly appreciate the facts and law and passed the erroneous impugned order.

9. However, learned counsel for the opposite parties defend the impugned order submitting that there is no illegality or infirmity in the impugned order and hence, the present petition is liable to be dismissed.

10. I considered the submissions advanced by both the parties and perused the material on record, I find that the marriage between the petitioner and O.P. No.1 Sunaina Devi is not disputed, nor has the petitioner disputed his paternity of minor daughters. I further find that the petitioner has claimed that the wife has left his matrimonial home without any rhyme and reason, whereas wife has claimed that she has been ousted from matrimonial home by the petitioner/husband. In view of



such rival claims of the wife and husband, I find that petitioner/husband has not got any decree of restitution of conjugal rights. Hence, for want of any such decree, this Court cannot hold that wife has left the matrimonial home without any rhyme and reason, more so, in our social milieu, a lady after birth of two daughters, would not like to leave her matrimonial home. Hence, I find that wife is living at her parents house with her minor daughters with sufficient reason. I further find that it is not a case of the petitioner/husband that he is paying any maintenance to his wife and his minor daughters. Instead, he has claimed that his wife has means to maintain herself and the minor daughters, but during trial, he has failed to prove that his wife has means to maintain herself and the minor daughters. On the other hand, as per the evidence of wife, the petitioner has some landed property and one *pucca* house. He has also not denied that he is a Jeevika Mitra. It is also not a case that he is physically incapable to earn, meaning thereby that he is physically fit person to earn. It also goes without saying that petitioner being husband of O.P. No.1 and father of O.P. Nos. 2 and 3 has legal obligation to maintain his wife and minor daughters.

11. In view of the aforesaid facts and circumstances,



learned Family Court has directed the petitioner herein to pay only Rs.4600/- to his wife for her maintenance and maintenance of his minor daughters. This is no way unjustified in the facts and circumstances of the case.

12. As such, I do not find any perversity of finding of fact or error of law. Accordingly, the present petition is dismissed for want of any merit.

(Jitendra Kumar, J.)

shoaib/-

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

