

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.848 of 2024

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

Manoj Kumar Gupta @ Manoj Gupta @ Dr. Bhupesh Prasad Gupta S/o- Late
Tulsi Sao R/o village- Govardhan Bigha Chaubada, PO And PS -Rafiganj,
District -Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumkum Devi D/o- Late Gopal Sao Village- Samshernagar Ps- Dudhnagar
Dist- Aurangabad
3. Gayatri Kumari D/o- Manoj Kumar Gupta @ Manoj Gupta @ Dr. Bhupesh
Prasad Gupta Village- Samshernagar Ps- Dudhnagar Dist- Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shiva Shankar Sharma, Adv.
For the Respondent/s	:	Ms. Minakshi Kumari, Adv., Mr. Munish Kumar, Adv., Mr. Munna Raj, Adv., Mr. Shitanshu Shekhar Kumar, Adv., Mr. Sudhanshu Shekhar Kumar, Adv., Mr. Adarsh Kumar, Adv., Mr. Gaurav Kumar, Adv., Mr. Prince Raj, Adv., Mr. Anshu Kisku, Adv.
For the State	:	Mrs. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 30-07-2025 This is an application under Section 19(4) of the Family Court's Act, challenging an order dated 6th August, 2024, passed in Maintenance Case No. 47 of 2007 by the learned Principal Judge, Family Court, Aurangabad, whereby and whereunder the petitioner/husband was directed to pay Rs. 7,000/- per month. Be it mentioned here that out of the said amount of Rs. 7000/- towards maintenance allowance, a sum of



Rs. 4,000/- was fixed towards maintenance in favour of opposite party no.2 and a sum of Rs. 3,000/- was fixed for the maintenance of opposite party no. 3.

2. The petitioner/husband has not challenged the factum of marriage with opposite party no. 2. However, the date of marriage is disputed. The petitioner being the husband when admits the marriage, cannot dispute the date of marriage, because of the fact that he being the husband knows the date of marriage of him with the opposite party.

3. It is contended by the opposite party no. 2 that after marriage she was tortured for illegal demand of dowry. The parents of opposite party no. 2 paid some amount to satisfy the demand of the petitioner, as the opposite party no. 2 is their only child.

4. Secondly, it is submitted by the learned Advocate on behalf of the petitioner that the daughter of the parties have already attained majority and she is not entitled to get any maintenance.

5. Learned Advocate for the petitioner also submits that opposite party no. 2 works in a woolen factory at Ludhiana and earns Rs. 30,000/- per month. Therefore, she has sufficient means to maintain herself and her daughter and is not entitled to



get any maintenance from the petitioner.

6. In course of argument, it is admitted by the learned Advocate for the petitioner that he has solemnized second marriage with another lady during subsistence of his marriage with the opposite party no. 2 on 04.02.2017.

7. In spite of such fact, the learned Advocate for the petitioner concludes submitting that the petitioner is ready and willing to stay with opposite party no.2 and 3 in joint mess in his house, which the opposite party no. 2 refused.

8. Needless to say that a married lady cannot be compelled to stay with another wife of the petitioner and such proposal was rightly refused by the opposite party no.2. When the petitioner married for the second time during the subsistence of first marriage, a presumption arises against the petitioner/husband that he refuses and neglects to maintain his wife and the wife is entitled to get maintenance allowance, if she does not have sufficient means to maintain herself.

9. In the instance case, the petitioner made an averment that the opposite party no. 2 earns Rs. 30,000/- per month, working in a woolen factory at Ludhiana.

10. In the trial court, the opposite party as petitioner filed affidavit disclosing her assets and liabilities. The said



affidavit was not refuted by the present petitioner by filing any counter affidavit of assets and liabilities. Therefore, the trial court passed the order of maintenance on the basis of the affidavits of assets and liabilities filed by the opposite party no. 2.

11. Thus, I do not find any illegality or material irregularity in the impugned order.

12. Last but not the least, it is submitted by the learned Advocate for the petitioner that the opposite party no. 2 previously filed an application under Section 125 of the Cr.P.C. which was registered as Miscellaneous Case No. 160 of 2015. The said Miscellaneous Case was dismissed for default and subsequent to the dismissal of the said case she filed Maintenance Case No. 47 of 2017 in the second time. It is no longer res intergra that successive maintenance case can be filed by the petitioner/wife claiming for maintenance.

13. With regard to quantum of maintenance, this Court finds that the opposite party no. 2 was granted only Rs. 4,000/- and opposite party no. 3 was granted Rs. 3,000/- per month to be paid by the petitioner toward maintenance.

14. This Court has duly considered the amount of maintenance in relation to the present day market price of



essential requirements to live a life of a human being. In order to get even a crumb of bread once in a day and two spoonful of milk by the child, this amount is absolutely necessary.

15. For the reasons stated above, I do not find any illegality or material irregularity in the impugned order.

16. Accordingly, the instant criminal revision application is dismissed on contest.

17. However, there shall be no order as to costs.

(Bibek Chaudhuri, J)

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