

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.888 of 2022

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

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Puja Devi Wife Of Manoj Kumar R/O Barmasiya, P.S.- Katihar Muffasil,
District-Katihar, Presently Residing At Mahendrapur, P.S. Sadar, District-
Purnea

... .. Petitioner

Versus

1. The State of Bihar
2. Manoj Kumar Son of Dayanand Yadav R/O Barmasiya, P.O.- Katihar, P.S.-
Katihar Muffasil, District- Katihar

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Adv.
For the State	:	Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 04-04-2025

The present Criminal Revision petition has been preferred against the impugned order dated 13.04.2022, passed by learned Additional Principal Judge, Family Court, Katihar in Maintenance Case No. 44 of 2013/109 of 2018, C.I.S No. 44 of 2013, whereby learned Family Court has refused to direct her husband i.e. O.P. No. 2/ Manoj Kumar to pay any maintenance to the petitioner/ wife, though by the same order, learned Court has directed the O.P. No. 2 to pay maintenance to his minor son/ Shubham.

2. The factual background of this case is that on the application under Section 125 Cr.P.C. was filed on 01.03.2013



by the petitioner/Puja Devi for her maintenance as well as that of her minor son, against her husband, who is O.P. No. 2 herein, claiming that her marriage was solemnized with O.P. No. 2/Manoj Kumar on 09.05.2005 as per Hindu Rites and Customs. Thereafter, she joined her matrimonial home and out of the wedlock, the minor son, Shubham was born. However, the marriage started running into rough weather on account of additional demand of dowry and on account of non-fulfillment of the same, she was subjected to cruelty and was ultimately ousted from the matrimonial home and since then she has been living at her maik. One Criminal case Katihar Mahila P.S. Case No. 19 of 2012 has also been lodged by the petitioner/wife against her husband and his family member. It has been also claimed that her husband is a teacher in a private school getting monthly salary of Rs. 20,000/-.

3. On notice, O.P. No. 2/Manoj Kumar appeared before the Family Court in the maintenance proceeding and contested the maintenance petition filed by his wife. However, he has admitted his marriage with the petitioner/Puja Devi and paternity of the child/ Shubham. However, he has claimed that the petitioner/wife has sufficient means to maintain herself and the minor son, because she is only daughter of her parents. It has



been also claimed that her wife/Petitioner is also running a beauty parlour. On the other hand, he is unemployed and has no source of income and is totally dependent upon his father.

4. However, after trial neither the wife could prove that her husband is a teacher in a private school, nor the husband could prove that his wife is running a beauty parlour or she has any source of income. However, learned Family Court has abruptly held that the wife/Petitioner is running a beauty parlour, though while discussing the evidence of the parties, the Family Court found that the husband could not prove that his wife is running a beauty parlour, because he could not tell the details of the beauty parlour.

5. However, admittedly, she is living in the house which has been transferred by the father of the husband in the name of her minor son. But, she has no other source of income.

6. As such, I find that the marriage between the petitioner and O.P. No. 2 is admitted. It is also on record that on account of cruelty, the petitioner/wife is living separately from her husband. However, she is residing in the house which has been transferred in the name of her minor son by the father of her husband. I further find that husband/O.P. No. 2 is not paying any maintenance to his wife. I also find that as per record, the



petitioner/wife has no source of income and her husband is also unemployed and he is dependent upon his parents.

7. However, there is no case of the husband that he is physically incapable to earn. As such, his legal duty is to earn and maintain his wife and minor son, but learned Family Court has erroneously refused to direct the husband to pay maintenance to his wife.

8. However, in view of the fact that she is living presently in the house transferred by father of O.P. No. 2/husband in the name of her minor son, the O.P. No. 2/husband of the petitioner is directed to pay Rs. 1,500/- per month to his wife/petitioner since the date of filing the petition i.e. on 01.03.2013.

9. The present petition stands allowed, accordingly.

(Jitendra Kumar, J)

Siddharth Soni/
Ravishankar

AFR/NAFR	NAFR
CAV DATE	N/A
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