

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.203 of 2024

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Abhijeet Darshan Son Of Balmiki Kumar Sinha Resident Of Village -
Narayanpur, P.S. - Sakatpur, District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kalpna Devi Daughter Of Sudhir Kumar, Wife Of Abhijeet Darshan
Resident Of Village - Narayanpur, P.S. - Sakatpur, District - Darbhanga. At
Present Resident Of Village - Chapahi, P.S. - Rajnagar, District - Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the O.P. No. 2	:	Mr. Gagandeo Yadav, Advocate
		Mr. Udeshya Kumar Yadav, Advocate
		Mr. Vinod Kumar, Advocate
		Mr. Rajesh Kumar, Advocate
		Mr. Ravi Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

10 16-02-2026 The present criminal revision petition has been preferred by the petitioner against the impugned order dated 19.02.2024, passed by learned Principal Judge, Family Court, Madhubani in maintenance petition bearing M.R. Case No. 18 of 2020, filed under Section 125 Cr.PC by O.P. No. 2 herein.

2. By the impugned order, the petitioner is admittedly the husband of O.P. No. 2 herein and he has been directed to pay Rs. 8,000/- per month to his wife/O.P. No. 2 herein towards her maintenance.



3. Heard learned counsel for the petitioner, learned APP for the State and learned counsel for O.P. No. 2.

4. Learned counsel for the petitioner being aggrieved by the impugned order submits that learned Family Court has failed to appreciate that there was no rhyme and reason for his wife/O.P. No. 2 to leave his matrimonial home and hence, she is not entitled to get any maintenance in view of Section 125(4) Cr.PC.

5. He further submits that even as per the material on record, the monthly income of the petitioner is only Rs. 3,000/- per month and hence, award of Rs. 8,000/- per month to his wife/ O.P. No. 2 herein towards her maintenance would be unjust and impractical.

6. He also submits that O.P. No. 2/wife has also source of income by way of providing tuition to students.

7. However, there is no other point raised by learned counsel for the petitioner against the impugned order.

8. Learned APP for the State and learned counsel for the O.P. No. 2 submit that as per the material on record, there is nothing to show that the petitioner-husband has been willing to keep his wife in his matrimonial home. As a matter of fact, the O.P. No. 2/wife has left the matrimonial home of the husband-



petitioner on account of demand of dowry and cruelty being committed by the petitioner-husband.

9. They further submit in regard to monthly income of the petitioner-husband that admittedly he provides private tuition to the students. However, as per the claim of the petitioner-husband, his monthly income from tuition is only Rs. 3,000/-, though his real income is much higher than that. As a matter of fact, the monthly income of the petitioner-husband is Rs. 50,000/- from the private tuition and his landed property. They further submit that the petitioner-husband has failed to prove that O.P. No. 2/wife has any source of income.

10. I considered the submissions advanced by the parties and perused the material on record.

11. I find that admittedly the petitioner is husband of O.P. No. 2, though there is no child born out of the wedlock. It is also undisputed that O.P. No. 2/wife has been living at her home. There is rival claim between the parties in regard to living of O.P. No. 2/wife from her petitioner-husband. As per the O.P. No. 2/wife, she is living separately at her *maike* on account of demand of dowry and cruelty having been committed by the husband-petitioner, whereas the husband is claiming that there was no reason to the O.P. No. 2/wife to live separately from his



matrimonial home.

12. However, I find that the husband-petitioner has never filed any matrimonial suit for restitution of conjugal rights. If the O.P. No. 2/wife had left the matrimonial home without any rhyme and reason, the petitioner-husband had cause of action to file matrimonial suit under Section 9 of Hindu Marriage Act for restitution of conjugal rights. But the petitioner-husband has not taken any such legal recourse and instead, he has filed divorce petition under Section 13 of Hindu Marriage Act. In fact, this divorce petition was decreed *ex parte* in favour of the petitioner/husband for which, as per statement of learned counsel for the parties, O.P. No. 2/wife has filed one miscellaneous case before the Family Court for setting aside the *ex-parte* divorce order in which the husband-petitioner is still to appear before the Family Court. On the other hand, it also transpires from the evidence on record that one criminal case was filed by the O.P. No. 2/wife under Section 498A IPC against the husband-petitioner, though as per claim of the husband-petitioner, that case has been closed by the police finding it untrue and even protest petition filed by the O.P. No. 2/wife was dismissed after pre-cognizance inquiry.

13. However, the fact remains that the petitioner-



husband has not taken any step towards restitution of conjugal rights and the wife/O.P. No. 2 is still contesting the *ex-parte* divorce which shows that she is willing to live with her husband, but husband is not willing to keep his wife. As such, statement of learned counsel for the petitioner that O.P. No. 2/wife has left the matrimonial home without any rhyme and reason does not persuade the Court to hold that she had no reason to live separately and she was not being neglected by the husband-petitioner.

14. As far as quantum of income is concerned, it transpires from the evidence on record that admittedly the husband-petitioner does private tuition, though his monthly income is Rs. 3,000/-. However, the fact of the case shows that the petitioner is an able-bodied and educated person, he can be presumed to be earning at least minimum wages and even as per the rate of Rs. 500/- per day, his monthly income comes to Rs. 15,000/- and out of Rs. 15,000/- he is required to maintain his wife.

15. However, I find that quantum of maintenance awarded by learned Family Court in favour of O.P. No. 2/wife is somewhat on the higher side. Hence, award of Rs. 5,000/- per month towards maintenance to O.P. No. 2/wife will meet the



ends of justice.

16. Hence, the present petition is allowed in part modifying the order of learned Family Court that the petitioner-husband will pay Rs. 5,000/- per month to his wife/O.P. No. 2 towards her maintenance. This order will be applicable from the date of filing of the petition i.e. 22.01.2020.

17. Accordingly, the present petition stands disposed of.

18. Trial Court Record be sent back to the Court below forthwith with a direction to the learned Family Court to execute the order without any further delay.

(Jitendra Kumar, J.)

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