

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.280 of 2021**

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

Dev Raj Dev S/o Late Shree Ram Chandra Bhagat Resident of Shiksha Nagar,
Banmankhi, P.S. - Banmankhi, District - Purnia.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Pritam Choudhary D/O Dr Pravin Kumar Choudhary, Residing at Mohalla - Nav Ratan Hata, P.S. - K.Hat, District - Purnea -854301.
3. Manas Raj S/O Smt. Pritam Choudhary, C/O Dr Praveen Choudhary Residing at Mohalla - Nav Ratan Hata, P.S. - K.Hat, District - Purnea -854301.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Agrawal, Advocate
Ms. Aditi Hansaria, Advocate
For the State : Mr. Ram Bilash Roy Raman, APP
For the O.P. Nos. 2 & 3 : Mr. Saket Tiwary, Advocate
Mr. Animesh Gupta, Advocate
Mr. Shiwam Gupta, Advocate
Mr. Amritya Raj, Advocate

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER**

9 25-11-2024 The present revision petition has been preferred against the final order dated 05.03.2020 passed by learned Principal Judge, Family Court, Purnea in Maintenance Case No. 208 of 2013 whereby maintenance has been allowed to O.P. No.2/ Pritam Choudhary (wife of the petitioner) and O.P. No.3/Manas Raj (minor son of the petitioner) @ Rs. 17,000/- per month each.

2. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel for the O.P. Nos. 2 and



3.

3. Learned counsel for the petitioner submits that the impugned order is not sustainable in the eye of law because the O.P. No.2/Pritam Choudhary (wife) has left the matrimonial home of the petitioner/husband without any rhyme and reason. He further submits that she was also cruel towards the petitioner as long as she lived at the matrimonial home of the petitioner and that is why, one Matrimonial Case bearing No. 201 of 2012 was also filed for dissolution of marriage with O.P. No.2 (wife).

4. However, learned A.P.P. for the State and learned counsel for the O.P. Nos. 2 and 3 defend the impugned order saying that there is no illegality or infirmity in the impugned order.

5. I considered the submission advanced by both the parties and perused the material on record.

6. I find that undisputedly O.P. No.2 is legally wedded wife of the petitioner and two sons, namely, Manas Raj (O.P. No.3) and Yash Raj are born out of the wedlock. Yash Raj had become major at the time of passing the impugned order and hence, he was denied the maintenance by learned Court below. However, O.P. No.3/Manas Raj is minor son who has been given maintenance by the impugned order. I further find that



after marriage, the marriage started running in rough weather and ultimately O.P. No.2/ wife lodged Criminal Complaint Case bearing No. 2222 of 2013 for offence punishable under Section 498A of the Indian Penal Code against the petitioner/husband and his family members which is still pending adjudication. It further transpires that in the Divorce Petition bearing No. 201 of 2012 filed by the petitioner/husband, O.P. No.2/wife filed counter claim for restitution of conjugal rights. As per oral submission of learned counsel for the parties, it transpires that a divorce petition of the petitioner/husband was dismissed and counter claim of the restitution of conjugal rights was decreed and on the same day, this impugned order for maintenance was passed by learned Family Court.

7. In view of dismissal of the Divorce Petition and decree of counter claim for restitution of conjugal rights under Section 9 of the Hindu Marriage Act and pendency of criminal case under Section 498A of the Indian Penal Code shows that O.P. No.2/wife has reasonable cause to live separately from the matrimonial home of the petitioner/husband and on such count, impugned order cannot be faulted. I further find that the petitioner/husband is in Indian Administrative Service of Tamilnadu Cadre and his monthly income at the time of passing



the order was found to be above Rs.90,000/- per month. From the impugned order, it also transpires that the parents of the petitioner/husband have also landed property and in the strict sense of the term, the parents may not be held dependent upon the petitioner. However, despite only two dependents wife and minor son upon the petitioner, learned Family Court has awarded maintenance to the wife and the minor son @ Rs. 17,000/- per month each.

8. In view of the aforesaid facts and circumstances, the quantum of maintenance @ Rs. 17,000/- to the wife/O.P. No.2 and minor son/O.P. No.3 each cannot be held to be excessive, particularly, in view of the fact that the petitioner has not led any evidence in support of the claim that the O.P. No.2/wife has also property and her own source of income.

9. As such, I find that there is no illegality or infirmity in the impugned order warranting any interference by this Court. Revision petition is accordingly dismissed.

10. At this stage, learned counsel for the petitioner points out that as of today, O.P. No.3/Manas Raj has already become major and he is not entitled to get maintenance.

11. In this regard, it may be pointed out that for such relief, the petitioner is also at liberty to move appropriate



application before Family Court under Section 127 of Cr.P.C on
the basis of change of circumstance.

(Jitendra Kumar, J.)

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