
(2013) 08 JH CK 0084

In the Jharkhand High Court

Case No : Criminal Revision No. 552 of 2012

Manoj Das @ Manoj Kumar Srivastava

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Citation : (2013) 4 JLJR 557

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Devesh Krishna, for the Appellant; Rajesh Kumar Singh for the O.P. No. 2, for the Respondent

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioner and learned A.P.P. for the State, as also learned counsel appearing on behalf of opposite party No. 2. The petitioner is aggrieved by order dated 28.8.2010 passed by learned Principal Judge, Family Court, Garhwa, in Misc. Case No. 37 of 2010, whereby in an ex-parte proceeding u/s 125 of the Cr.P.C., the petitioner has been directed to make the payment of Rs. 1,000/- per month to the opposite party No. 2, who is his deserted wife and also Rs. 500/- per month to the minor daughter, who is living with her mother, for their maintenance.

2. It appears from the record, that upon notice to the opposite party No. 2, this Court took steps for reconciliation between the parties, as it was submitted by learned counsel for the petitioner that the petitioner was ready to keep his wife with full dignity and honour. The record shows that sufficient steps have been taken for reconciliation of the matrimonial dispute between the parties, but ultimately all the efforts failed. The stand of the petitioner is that his wife had left the matrimonial home on her own without there being any sufficient reason, whereas, the stand of the opposite party No. 2 wife, is that she was brutally assaulted and subjected to cruelty for demand of dowry.

3. Be that as it may. It is apparent from the impugned order that the same has

been passed in an ex-parte proceeding against the petitioner, as the petitioner failed to appear in the Court below in spite of notice. If the petitioner has a good ground for setting aside the ex-parte order, the petitioner ought to have filed his application in the Court below itself, for setting aside the order, but the petitioner has approached this Court. The impugned order is passed by the Court below, after the petitioner failed to respond to the notice issued to him, and on the basis of the evidence brought on record by the deserted wife, and there is no reason for interference in the said order by this Court.

4. However, in the facts of this case, the petitioner is given the liberty to move the Court below for setting aside the ex-parte order, if he has good ground for getting the ex-parte order set aside. If any such application is filed by the petitioner, the same shall be considered and disposed of by the Court below in accordance with law. This criminal revision application stands disposed of with the observations/directions as above.