
(2010) 08 JH CK 0063

In the Jharkhand High Court

Case No : Criminal Revision No. 443 of 2010

Satish Kumar Sharma @ Satish Prasad Sharma

APPELLANT

Vs

The State of Jharkhand and Ranjana Devi @ Ranjana Kumari

RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2011) 2 DMC 52

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Advocate : Ravi Prakash, for the Appellant; A.B. Mahto, Assistant Public Prosecutor, for the Respondent

Judgement

Jaya Roy, J.—Heard learned Counsel for the Petitioner and learned Counsel for the opposite parties.

The Petitioner has filed this revision application against the order dated 26.02.2010 passed by the Principal Judge, Family Court, Sahebganj whereby the Principal Judge has directed the Petitioner to pay a sum of Rs. 750/- per month to the applicant opposite party No. 2, namely Ranjana Devi @ Ranjana Kumari and her daughter, namely, Mahima Kumari @ Tejashwani Kumari from the date of the order and also directed the Petitioner to pay a sum of Rs. 5000/- as litigation cost.

2. Brief facts of the case is that the applicant opposite party Ranjana Devi @ Ranjana Kumari is the legally married wife of the Petitioner Satish Kumar Sharma @ Satish Prasad Sharma and their marriage was solemnized on 16.12.1999 according to Hindu rites and rituals. After marriage, the applicant lived in her Sasural for about six months very peacefully. In the meantime, she became pregnant. Thereafter, the Petitioner-husband and his family member started committing torture upon her. Ultimately, having no way, she came to her Nathar and started living with her brother and since then she is residing there. On 04.12.2000 the applicant gave birth to a daughter (Mahima Kumari @ Tejashwani

Kumari). This information was sent to her husband but neither her husband nor his family members cared to see them. Further case of the applicant-opposite party is that she is unable to maintain herself and her daughter. She has stated that her husband-Petitioner has sufficient means of earning. He earns Rs. 15,000/- per month. Therefore, she has filed this revision application claiming Rs. 3000/- per month for herself and for her minor daughter as maintenance.

3. On receipt of notice, the Petitioner appeared and filed show-cause admitting that the Opposite party No. 2 is his wife and Mahima Kumari @ Tejashwani Kumari as his daughter. But he denied all the other allegations leveled against him and his family members.

4. The applicant has examined two witnesses including herself. The another witness is her brother. Petitioner also examined five witnesses including himself. He also filed certain documents which were exhibited as exhibits A to F.

5. Learned Counsel for the Petitioner has contended that the Petitioner was an advocate but he left his practice since 2001 as he had no sufficient income from the legal profession. He, thereafter started doing tuition from which he is maintaining himself. It is submitted that the Petitioner is earning Rs. 1500/- per month and therefore it is not possible for him to give separate maintenance to his wife and the daughter. In February, 2002 he went to his Sasural and demanded Bidai for his wife and daughter but the in-laws refused to send the applicant to her Sasural saying that as he is a poor man they will not send their daughter with him.

6. Learned Counsel for the Petitioner has submitted that the Petitioner has filed a number of documents one of which is Exhibit-H i.e. decree of divorce which was allowed by the Family Court in T.S. (Matrimonial) Case No. 26 of 2006. Thus, the marriage tie between the Petitioner and applicant was dissolved, He has further submitted that applicant opposite, party is employed in Primary Sanskrit School, Talbanna, Sahebganj and in this regard he has produced Exhibits J & J/1. From Exhibit J/1, it appears that the said employment was given or, contract bearing contract No. 03/36/00503 Further, the document Exhibit-K Which is a certificate issued by the Head Mistress of the said school reveals that the date of joining in that school is 30.06.2006 and it was till 31.12.2008 but Mandey (Salary) was of Rs, 1000/- per month. Therefore, according to the Petitioner, she is not entitled to any maintenance. Learned Counsel for the Petitioner has further argued that the court below has not given any specific finding regarding the income of the Petitioner.

7. The applicant opposite party has proved her case even after being cross-examined by the Petitioner at length. From the impugned order, I find that admittedly the applicant-opposite party No. -2 is the wife of the Petitioner and Mahima Kumari @ Tejashwani Kumari is his daughter. No doubt, divorce has been granted between them and now applicant is the divorced wife of the Petitioner. According to the provision of Section 125 of the Code, of Criminal Procedure a

wife includes the "divorced wife" and she is entitled for maintenance till she is remarried. Therefore, the submissions made by the counsel for the Petitioner that as because divorce has been granted between the parties she is not entitled to maintenance, has no force.

8. Now so far as the quantum of maintenance is concerned, regarding the earning of the applicant-opposite party, the documents filed by the Petitioner i.e. Exhibit J & J/1 clearly show that the applicant is not in permanent employment. Further more, even if she is in employment, she is getting only Rs. 1000/- per month which is not sufficient either to maintain herself or maintain her daughter in the present hard days.

9. As the Petitioner has not denied the relationship between him and the applicant-opposite party and the Petitioner has also sufficient means, in my opinion he is bound to maintain the applicant-opposite party.

10. Considering the submissions made by the learned Counsel for the Petitioner and also considering the elaborate discussions made in the impugned judgment, in my opinion the amount of monthly maintenance and the amount awarded as litigation cost is not at all unreasonable. It appears to be just and reasonable.

11. Accordingly, I find no reason to interfere with the impugned order. This application is accordingly dismissed.