

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.651 of 2019

Arising Out of PS. Case No.-361 Year-2017 Thana- MUNGER COMPLAINT CASE
District- Munger

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1. Company Ram @ Tiran Ram S/o Darogi Ram R/o village- Bhagichak, P.O.- Jamalpur, P.S.- Naya Ram Nagar, District- Munger
 2. Ram Kumari Devi @ Raj Kumari Devi W/o Company Ram @ Tiran Ram R/o village- Bhagichak, P.O.- Jamalpur, P.S.- Naya Ram Nagar, District- Munger
 3. Sagar Kumar S/o Company Ram @ Tiran Ram R/o village- Bhagichak, P.O.- Jamalpur, P.S.- Naya Ram Nagar, District- Munger
 4. Rea Devi @ Reena Devi D/o Company Ram @ Tiran Ram R/o village- Bhagichak, P.O.- Jamalpur, P.S.- Naya Ram Nagar, District- Munger
 5. Munni Devi W/o Sada Nand Ram R/o village- Oda Bagicha, P.O.- Dharhara, P.S.- Dharhara, District- Munger
 6. Sada Nand Ram S/o Lakhan Ram R/o village- Oda Bagicha, P.O.- Dharhara, P.S.- Dharhara, District- Munger

... .. Petitioners

Versus

1. The State of Bihar
2. Puja Kumari W/o Late Sourab Kumar R/o village- Bhagichak, P.S.- Naya Ram Nagar, District- Munger, At present Daughter of Pramod Ram @ Moti Ram, Wife of Late Sourab Kumar, Resident of Village- Sansar Pokhar, Pachna- Road, Gandhi Tola, P.S.- Kabaiya (Town Thana), District- Lakhisarai

... .. Respondents

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Appearance :

For the Petitioners	:	Mr. Shashi Saurabh, Advocate Ms. Puja Kumari, Advocate
For the State	:	Mr. Mohammed Arif, APP
For the O.P. No.2	:	Mr. Rahul Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 20-01-2025

The present revision petition has been preferred by the petitioners against the impugned order dated 25.02.2019 passed by learned Additional Sessions Judge-II, Munger in Criminal Appeal No. 21 of 2017, whereby learned Sessions

Court has directed the father-in-law and mother-in-law of the Complainant to pay maintenance to her.

2. The relevant facts of the case emerging from the records is that the O.P. No. 2/Complainant had filed one application before learned Additional Chief Judicial Magistrate IVth, Munger bearing Complaint No. 361(C) of 2017 under Section 12 of Protection of Women from Domestic Violence Act, 2005 for passing protection order, residence order as well as maintenance order against her husband, parents-in-law as well as other relatives of the Complainant. Thereafter, learned Additional Chief Judicial Magistrate has passed the order dated 07.09.2017 whereby all the opposite parties were directed to provide residence and pay maintenance to the Complainant. Protection order against all of them was also passed by learned A.C.J.M. The said order of learned A.C.J.M was impugned before learned Sessions Court in Criminal Appeal No. 21 of 2017. During the pendency of this appeal, husband of the Complainant, Saurabh Kumar died. By the impugned final appellate order, learned Sessions Court modified the order dated 25.02.2019 passed by learned A.C.J.M. holding that in view of the fact that the husband of the complainant has died, both the parents-in-law of the Complainant are liable to pay maintenance

to their Daughter-in-law/Complainant . Hence, he directed them to pay maintenance @ Rs. 5,000/- per month. There was no modification in regard to residence and protection order passed in favour of complainant. Being aggrieved by the impugned order, the petitioners preferred the present revision petition. The petitioners are parents-in-law and other relatives of the Complainant.

3. I heard the learned counsel for the petitioners, learned APP for the State and learned counsel for O.P. No. 2.

4. Learned Counsel for the petitioners submits that the petitioners have no grievance regarding protection and residence order passed by learned A.C.J.M. However, they have serious objection to maintenance order passed against them. He further submits that during lifetime of the husband, no relative of the husband is liable to maintain his wife. He further submits that at the time of passing the order by learned A.C.J.M, husband was alive, and hence, there was no question of passing any maintenance order against the parents-in-law and other relatives of the complainant and hence, the order is liable to be set aside.

5. He further submits that during the pendency of the appeal, the husband of the Complainant died and thereafter,

there is a liability of father-in-law to maintain his daughter-in-law under Section 19 of Hindu Adoptions and Maintenance Act. However, such liability of the father-in-law is limited. He is liable to pay maintenance only if he has means to do so from coparcenary property. Moreover, in the case on hand, apart from one joint residential house, there is no co-parcenary property. He himself is a pensioner and can hardly maintain himself and his wife.

6. However, learned APP for the State defends the impugned order saying that there is no illegality or infirmity in it. Hence, this petition is liable to be dismissed.

7. Learned Counsel for O.P. No. 2 submits that she is presently living at her parents' home and there is no partition in the joint family and there is other joint family property also and she has no means to maintain herself. Hence, the daughter-in-law is entitled to get maintenance from her father-in-law.

8. I consider the submissions advanced by both the parties and perused material on record.

9. I agree with the submissions of learned Counsel for the petitioners that during the lifetime of husband no other family member is liable to maintain his wife under Section 125 Cr.PC or under Hindu Law. However, after death of the son, the

widow daughter-in-law is entitled to get maintenance from his father-in-law under Section 19 of Hindu Adoptions and Maintenance Act, 1956 which reads as follows:

“19. Maintenance of widowed daughter-in-law.—

(1) A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law: Provided and to the extent that she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance—(a) from the estate of her husband or her father or mother, or (b) from her son or daughter, if any, or his or her estate.

(2) Any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share, and any such obligation shall cease on the re-marriage of the daughter-in-law.”

(Emphasis supplied)

10. From the bare reading of the statutory provisions of Section 19(1) of Hindu Adoptions and Maintenance Act, it transpires that she is entitled to get maintenance from her father-in-law, but subject to the following conditions:

- (i) She is unable to maintain herself out of her own earnings or other property, or
- (ii) where she has no property of her own,
- (iii) She is unable to obtain maintenance from the estate of her husband or her father or mother or from her son or

daughter, if any, or his or her estate.

11. Section 19(2) further provides that the obligation of father-in-law under Section 19(1) is not enforceable if the father-in-law has not the means to do so from any co-parcenary property in his possession out of which the daughter-in-law has not obtained any share and any such obligation shall cease on the re-marriage of the daughter-in-law.

12. Hence, Section 19 clearly shows that liability of father-in-law to maintain his daughter-in-law is dependent upon income from the co-parcenary property, if any. But learned Counsel for the petitioners submits that there is no such co-parcenary property. There is only one residential house for the joint family where the complainant is free to live. He also submits that the father-in-law is just a pensioner and has no additional means to maintain her daughter-in-law. Moreover, mother-in-law has no liability to maintain her daughter-in-law. Hence, the impugned order is not sustainable in the eye of law.

13. I perused the impugned order passed by learned A.C.J.M as well as learned Sessions Court. I find that learned A.C.J.M, without discussing the law and the facts, has passed the maintenance order against all the respondents including the husband, both parents-in-law and other relatives. Such order

could not be sustainable in the eye of law. Only husband could have been directed to pay maintenance, at the most, subject to fulfillment of legal requirements.

14. Moreover, even learned Sessions Court has committed error to hold that both father-in-law and mother-in-law are liable to maintain their daughter-in-law. Under Section of the Hindu Adoptions and Maintenance Act, liability to maintain widow daughter-in-law is only on father-in-law and not on the mother-in-law. But, in the case on hand, learned Sessions Court has directed both father-in-law as well as mother-in-law to pay maintenance to their widow daughter-in-law. Even liability of the father-in-law is not absolute. Certain conditions as stipulated under Section 19 of the Hindu Adoption and Maintenance Act, are required to be fulfilled before fastening such liability on the father-in-law. But, learned Sessions Court has not discussed such relevant law and facts before passing the impugned order.

15. Hence, the impugned order passed by learned Sessions Court is not sustainable in the eye of law.

16. Accordingly, the impugned order passed by the Courts below are set aside and the matter is remanded to learned A.C.J.M. Munger, to consider the matter afresh in regard to

entitlement of the complainant from the father-in-law after taking on record relevant facts and evidence from both sides Complainant/daughter-in-law and father-in-law/petitioner herein.

17. It is clarified that protection order as well as residence order passed by learned A.C.J.M is not disturbed. The complainant is at liberty to live in the joint residence of the family.

18.Accordingly the present revision petition stands disposed of in the aforesaid terms.

19. The Office is directed to send the LCR to the Court below without any delay.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.01.2025
Transmission Date	23.01.2025