



CIVIL

Patna High Court Rules: Moral Lapses Alone Do Not Constitute Living in Adultery in Maintenance Cases

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In a recent judgment, the Patna High Court has reaffirmed the legal principles governing the maintenance rights of a wife, even in the face of allegations of adultery. The case, Avadh Kishore Sah vs. The State of Bihar (Criminal Revision No. 262 of 2020), has significant implications for marital rights and obligations under Indian law.

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Background of the Case

The case involves Avadh Kishore Sah, a government employee residing in Saharsa, Bihar, and his estranged wife, Soni Devi, along with their minor daughter, Gudiya Kumari. The dispute began when Soni Devi and Gudiya Kumari filed a maintenance petition against Avadh Kishore Sah on 26 July 2012, seeking financial support. The Family Court, Bhagalpur, passed an order on 14 January 2020, directing Avadh Kishore Sah to pay Rs. 3,000 per month to his wife and Rs. 2,000 per month to his daughter until her marriage. The arrears were to be paid in three instalments within six months.

Allegations of Adultery

Avadh Kishore Sah contested the maintenance order, alleging that his marriage to Soni Devi was forcibly solemnized and that he was not the biological father of Gudiya Kumari. He claimed that Gudiya Kumari was born within 4 and a half months of the marriage, suggesting she was conceived before the marriage. Additionally, he alleged that Soni Devi had an illicit relationship with her brother-in-law, Vishnudeo Sah, both before and after the marriage. He argued that these moral lapses disqualified her from receiving maintenance.

Court's Observations on Adultery and Moral Lapses

The Patna High Court analysed the arguments presented by both parties. The court noted that while moral lapses could be considered acts of adultery, they do not necessarily equate to "living in adultery." The court cited several judicial precedents, including Hitesh Deka Vs. Jinu Deka (2025 SCC OnLine Gau 259), Sukhdev Pakharwal Vs. Rekha Okhale (2018 SCC OnLine MP 1687), and Ashok Vs. Anita (2011 SCC OnLine MP 2249), which emphasize that "living in adultery" denotes a continuous course of conduct and not isolated acts of immorality.

The court observed that a few moral lapses and a return to a normal life do not constitute continuous adultery. The petitioner failed to provide specific details or evidence of Soni Devi's alleged adulterous conduct, and the court found that his willingness to keep her in his matrimonial home contradicted his claims of her adulterous behaviour. The court concluded that Soni Devi's moral lapses, if any, did not disqualify her from receiving maintenance under Section 125 Cr.PC.

Legal Provisions and Judgments Relied Upon

The Patna High Court relied on several legal provisions and judicial precedents to adjudicate the case. Section 125 Cr.PC, which deals with the maintenance of wife, children, and parents, was central to the court's decision. The court also referred to Explanation to Section 125(1) Cr.PC, which includes a divorced wife who has not remarried as eligible for maintenance. Section 112 of the Evidence Act, which presumes that a child born during the continuance of a valid marriage is legitimate, was crucial in determining the legitimacy of Gudiya Kumari.

The court cited several landmark judgments, including Yamunabai A. Adhav Vs. Anantrao S. Adhav (1988) 1 SCC 530, Savitaben S. Bhatiya Vs. State of Gujarat (2005) 3 SCC 636, Kamala v. M.R. Mohan Kumar, (2019) 11 SCC 491, and Santosh Vs. Naresh Pal, (1998) 8 SCC 447. These judgments provided guidance on the interpretation and application of Section 125 Cr.PC and the presumption of legitimacy under Section 112 of the Evidence Act.

Conclusion

The Patna High Court dismissed the revision petition, upholding the maintenance order passed by the Family Court, Bhagalpur. The court found no perversity in the findings or error of law that would warrant interference. The order emphasized that the findings regarding the validity of the marriage and paternity of the child were tentative and subject to any contrary finding by a competent Civil or Family Court. This judgment reaffirms the legal principles governing maintenance and legitimacy, providing clarity and guidance for similar cases in the future.

The court's decision highlights the importance of distinguishing between isolated acts of immorality and continuous adulterous conduct. It underscores the principle that moral lapses alone do not disqualify a wife from receiving maintenance, especially when she returns to a normal life. This ruling is a significant precedent in family law, emphasizing the need for clear and substantial evidence to support allegations of adultery.

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