

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 574 of 2023**

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

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Ajay Bihari Prasad Singh son of Shivjee Prasad Singh Village- Po- Nainha
Milki Ps- Sadar Hajipur Dist- Vaishali at Hajipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Punam Kumari wife of Ajay Bihari Prasad Singh, D/o- Satya Narayan Singh
R/o- Village- Po- Nainha Milki Ps- Sadar Hajipur Dist- Vaishali at Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms Sudha, Advocate
For the Respondent/s : Mr. Dilip Kumar No. 1

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 05-08-2024

This revision petition has been preferred by the petitioner-husband of opposite party No 2-wife being aggrieved with the judgment dated 09.05.2023 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Maintenance Case No 125 of 2015 whereby the learned Principal Judge, Family Court allowed the application filed under Section 125 of the Cr P C filed by Opposite Party 2 and directed the petitioner to pay a monthly maintenance of Rs 15,000/- from the date of filing the application under Section 125 of the Cr P C.

2 It is submitted by the learned counsel for the petitioner that during pendency of the maintenance application before the



learned Principal Judge, Family Court, vide its order dated 01.09.2016, the learned Principal Judge, Family Court directed the petitioner to pay monthly interim maintenance also at the rate of Rs 5,000/- to the opposite party No 2-wife. He submits that in her application under Section 125 of the Cr P C, the opposite party No 2-wife pleaded that the petitioner is getting monthly salary of Rs 12,000/-. However, the learned Principal Judge, Family Court, while deciding the application on the basis of salary slip (Exhibit P-1), arrived on the conclusion that the petitioner is getting a monthly salary of Rs 33,839/- in the year, 2021 and on this ground only, directed the petitioner to pay a monthly maintenance of Rs 15,000/- from the date of submission of application under Section 125 of the Cr P C. Since the petitioner is already paying the monthly interim maintenance of Rs 5,000/- from 01.09.2016 and further considering the fact that in the year 2015, when the application under Section 125 of the Cr P C was filed by the wife, the petitioner was getting a monthly salary of Rs 12,000/- only. The learned Principal Judge, Family Court ought to have directed the petitioner to pay the monthly maintenance of Rs 15,000/- from the date of order, i e, 09.05.2023. Lastly, he submits that the petitioner is ready to pay a monthly maintenance as directed by the



learned Principal Judge, Family Court at the rate of Rs 15,000/- per month from the date of order, i e, 09.05.2023.

3 Learned counsel for Opposite Party No 2-wife opposes the prayed made by the learned counsel for the petitioner. However, he admits the fact that in the application filed under Section 125 of the Cr P C, opposite party No 2-wife herself pleaded that petitioner-husband is getting a monthly salary of Rs 12,000/- only.

4 I have heard learned counsel appearing for both the parties and perused the documents as well as the impugned order available on record.

5 The application under Section 125 of the Cr P C has been filed in the year, 2015 which is annexed with the petition as Annexure P-1. In the said application, in paragraph 5, it is pleaded by opposite party No 2-wife that petitioner is getting a monthly salary of Rs 12,000/-. Admittedly, by order dated 01.09.2016, the learned Principal Judge, Family Court directed the petitioner to pay interim maintenance at the rate of Rs 5,000/- to opposite party No 2-wife. Perusal of the impugned order further shows that on the basis of salary slip of the year 2001, i e, Exhibit P-1, the learned Principal Judge, Family Court arrived at the conclusion that petitioner is getting a monthly salary of Rs 33,839/- and



considering the above monthly salary of the petitioner, the learned Principal Judge, Family Court fixed the amount of monthly maintenance at the rate of Rs 15,000/- per month which appears to be just and proper.

6 The impugned further shows that the learned Principal Judge, Family Court directed the petitioner to pay the maintenance amount from the date of submission of application under Section 125 of the Cr P C. This direction issued by the learned Principal Judge, Family Court is liable to be set aside for the reason that the learned Principal Judge, Family Court did not consider the fact that at the time of submission of application under Section 125 of the Cr P C, as pleaded by opposite party No 2-wife, the petitioner was getting a monthly salary of Rs 12,000/- only and on the basis of his salary, which was of the year 2021, the learned Principal Judge, Family Court directed the petitioner to pay Rs 15,000/- per month as maintenance amount. Since in the year 2015, the petitioner was getting monthly salary of Rs 12,000/- only and on the basis of order passed by the learned Principal Judge, Family Court dated 01.09.2016, he is already paying interim maintenance of Rs 5,000/- per month, therefore, the learned Principal Judge, Family Court ought to have directed the petitioner to pay monthly



maintenance of Rs 15,000/- from the date of order instead from the date of filing the application.

7 Accordingly, this revision petition is partly allowed.

8 The petitioner is directed to pay a monthly maintenance of Rs 15,000/- to opposite party No 2-wife from 09.05.2023, i e, the date of order passed by the learned Principal Judge, Family Court.

9 The petitioner is further directed to pay the entire interim maintenance amount at the rate of Rs 5,000/- from 01.09.2016 to 09.05.2023, if any, within two months.

10 If any amount is paid by the petitioner, it will be deducted from the arrears of interim maintenance amount.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.08.2024
Transmission Date	07.08.2024

