

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.308 of 2024**

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

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Anjalee Devi @ Anjalee Kumari W/O Ajit Kumar Gupta, D/O Shatrudhan Prasad R/O Village- Balthar, P.S- Balthar, Distt.- West Champaran, At Present Resident Of Sariswa, P.S- Majhauriya, Distt.- West Champaran.

... .. Petitioner/s

Versus

1. Ajeet Kumar Gupta S/O Ramayan Prasad R/O Village- Balthar, P.S- Balthar, Distt.- West Champaran.
2. The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bashishtha Narayan Mishra, Advocate  
Mr. Brij Kishor Mishra, Advocate  
Mr. Avinash Raj, Advocate  
For the Respondent/s : Mr. Ajeet Kumar Bhardwaj, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI  
ORAL JUDGMENT  
Date : 14-07-2025**

This is an application under Section 19(4) of the Family Courts Act filed by wife of the petitioner challenging an order of maintenance mainly against her husband, the opposite party no. 1 herein.

2. It is pertinent to mention at the outset that the learned Principal Judge, Family Court, West Champaran at Bettiah passed an order on 15.03.2024 disposing of



Maintenance Case No. 317 of 2016 directing the opposite party to pay maintenance at the rate of Rs. 4500/- per month in favour of the petitioner. The petitioner has filed the instant revision challenging the quantum of maintenance and stating *inter alia* that she is entitled to maintenance at a higher rate at least at the rate of Rs. 20,000/- per month. From the pleadings of the parties and factual circumstances, marriage between the petitioner and opposite party no.1 is not disputed. Their marriage was solemnized on 29.05.2012 according to Hindu rights and customs in the house of the petitioner. It is stated that at the time of marriage, the parents of the petitioner paid dowry and other bridal gifts according to their ability, but when the petitioner went to her matrimonial home, her matrimonial relations started harassing and taunting her on the quality of dowry and bridal gifts and also demanded a Maruti Swift Car from her father. Her father was unable to fulfill the demand of the petitioner. The father of the petitioner went to her matrimonial home to settle the dispute between the parties amicably, but the opposite party no.1 and his family members flatly refused to keep the petitioner in their house and declared that they would give second marriage of the opposite party. It is also stated by the petitioner that though she is a literate lady, but is unemployed.



On the other hand, the opposite party is a doctor having M.B.B.S. and M.S. degree in General Surgery and D.N.B. (Urology). It is stated by the petitioner that the opposite party earns in lakhs per month. Moreover, he has 15 acres of agricultural land from which he has considerable earning. Therefore, the petitioner prayed for maintenance allowance from opposite party at the rate of Rs. 20,000/- per month.

3. The case of the opposite party, on the other hand, is that the maintenance case under Section 125 of the Cr.P.C. is not maintainable for the reason that the petitioner was allowed alimony *pendente lite* at the rate of Rs. 3500/- per month upon an application under Section 24 of the Hindu Marriage Act, 1955 in a suit for divorce bearing no. 285 of 2013 pending in the same Court. It is also stated that the applicant is getting Rs. 4000/- per month on the basis of order passed in a case under the Dowry Prohibition Act, 1961. The opposite party also states that the petitioner in all lived one and half months approximately at her matrimonial home and she had an illicit relation with her brother-in-law, namely, Bajrangi Prasad. The opposite party further stated that the petitioner teaches in a private coaching center at Raxaul. According to the opposite party, he earns only Rs. 30,000/- to 35,000/- per month from his



profession. During trial of the proceeding under Section 125 of the Cr.P.C., the parties filed affidavits of assets and liabilities. From the affidavits of assets and liabilities filed by the opposite party, it is ascertained that he has a car loan of Rs. 7,23,000/- and a personal loan of Rs. 25,00,000/- for renovation of his paternal home. He also mentioned that he spends Rs. 12,000/- towards rent, Rs. 10,000/- towards household expenses and Rs. 10,000/- towards tuition fees, total being Rs. 32000/-. During the trial case, the petitioner examined witnesses on behalf of her, besides the affidavit of assets and liabilities, but the opposite party did not examine any witness in support of his case.

4. In course of hearing of the instant revision, it is submitted by the learned Advocate on behalf of the petitioner that the petitioner is getting Rs. 3500/- in a proceeding under Section 24 of the Hindu Marriage Act, as alimony *pendente lite*. It is, however, disputed that the petitioner is getting Rs. 4000/- per month in a case under the D.P. Act, 1961. On the contrary, it is submitted by the learned Advocate for the petitioner that the petitioner filed an application under Section 498(A) of the I.P.C. with other coordinate penal provisions and in the said proceeding when the opposite party approached this Court for bail, the bail Courts directed the petitioner to go on paying Rs.



4000/- per month to the petitioner herein. It is also submitted by the learned Advocate for the petitioner that the opposite party is irregular in payment of alimony *pendente lite* at the rate of Rs. 3500/- per month.

5. Considering the arguments advanced by the learned Advocate for the petitioner and the impugned order, if this Court assumes that the petitioner gets Rs. 7500/- from two proceedings, she has prayed for maintenance allowance at the rate of Rs. 20,000/-. The Trial Court without any material believed the version of the opposite party that he earns Rs. 30,000/35,000 per month. The Court can take judicial notice of the fact of general income of a medical practitioner having his M.B.B.S., M.S. (General Surgery) and D.N.B. (Urology) degree. If the opposite party earns Rs. 30,000/35,000 per month, it was not possible for him to take a loan of Rs. 7,23,000/- to purchase a car and a personal loan of Rs. 25,00,000/- for the renovation of his paternal home. The bank would not have granted such huge amount of loan to a person having monthly income of Rs. 30,000/35,000. It is needless to say that bank grants loan the amount of which is fixed for a professional person from the declaration made by him before the bank. In **Rinku Baheti vs. Sandesh Sharda** reported in **2024 SCC**



**OnLine 3801**, the Hon'ble Supreme Court held in paragraph no.

80 as hereunder:

*“80. We have serious reservations with the tendency of the parties seeking maintenance or alimony as an equalisation of wealth with the other party. It is often seen the parties in their application for maintenance or alimony highlight the assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse. However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the wealth of the spouse has decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse. The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status would be putting a burden on his own personal progress. We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper?”*

6. In the instant case, the petitioner has prayed for



maintenance allowance at the rate of Rs. 20,000/- per month. I have already held that the opposite party took liability by way of bank loan etc. where it is ascertained that he earns Rs. 30,000/35,000 per month. The petitioner is the wife of a highly educated medical practitioner. She has the right to live according to their status even after their separation. She has prayed for maintenance allowance at the rate of Rs. 20,000/- per month.

7. This Court finds that the Trial Court failed to consider the respective cases and passed an order directing the opposite party to make payment of Rs. 4500/- to his wife. The amount of maintenance is far less considering the status of the parties.

8. For the reasons stated above, the instant revision is allowed *ex parte*. The order passed by the learned Principal Judge, Family Court, West Champaran, Bettiah in Maintenance Case No. 317/2016 is set aside. The opposite party is directed to pay maintenance at the rate of Rs. 13,000 per month plus the amount of Rs. 3500 which has been passed in a proceeding under Section 24 of the Hindu Marriage Act and Rs. 4000 per month which is directed to be paid as a condition for bail per month by the 10<sup>th</sup> of each English calendar month from the date



of filing of the application i.e., 15.12.2016. The opposite party is further directed to pay the arrear maintenance in 15 equal monthly installments.

9. The instant revision is disposed of.

**(Bibek Chaudhuri, J)**

Anushka/-

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