

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.102 of 2019

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

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Sujit Kumar, son of Sri Ram Chandra Sah, resident of Village – Jalalpur, P.S.-
Lalganj, District-Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Puja Kumari, D/o Baleshwar Sah, resident of village- Nawada Khurd,
P.S.-Ganga Bridge, District-Vaishali at Hajipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Navjot Yesu, Advocate
For the State	:	Mr.Bal Mukund Prasad Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-09-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 27.11.2018 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Maintenance Case No.33 of 2017. By the impugned order, the learned Principal Judge has been pleased to award a maintenance allowance of Rs.4,000/- per month to the applicant-wife.

Learned counsel for the petitioner admits that even though a plea was taken in the learned court below that the applicant-wife has got independent income but in course of evidence no plausible material could be brought to the notice of



the court to take a view that the applicant-wife is having any independent income. In this regard the learned Principal Judge has recorded a finding in paragraph '15' of the impugned judgment.

Learned counsel for the petitioner, however submits that before the learned Principal Judge, Family Court there was no material to fix the quantum of maintenance. The income of the petitioner was not duly assessed. It was the submission of the petitioner that he is unemployed and is not carrying any business.

This Court has heard learned counsel for the petitioner and perused the records. It appears on a perusal of the impugned judgment that for fixing the maintenance amount of Rs.4,000/- the learned Principal Judge, Family Court has assessed the income of the petitioner assuming that he is a daily wager.

In the opinion of this Court, the purpose behind bringing Section 125 in the Cr.P.C. was to give a succor to the victim lady who is being neglected by her husband. In the case of this nature where the husband is not coming forward to file a specific affidavit disclosing his assets and income, a best judgment award is to be made to give effect to the piece of social legislation.



In this case, the learned Principal Judge, Family Court has assessed the income of the petitioner taking him as a daily wager. In the present days even a daily wager earns at least Rs.400/- per day. If the monthly income of the petitioner is assessed about Rs.12,000/- per month, this Court is of the considered opinion that no interference would be required with the amount of maintenance awarded in this case which is a meagre sum of Rs.4,000/- per month.

At this stage, learned counsel for the petitioner has informed this Court that the petitioner has not paid a single penny to his wife during all these years. There was no order of stay of the impugned judgment in the present case.

Considering this conduct of the petitioner, this Court, while dismissing the writ application, deems it just and proper to impose a cost of Rs.25,000/- which will be payable by the petitioner to the opposite party together with the arrears of maintenance and the current maintenance.

Let the Principal Judge, Family Court, Vaishali at Hajipur realize the entire amount as expeditiously as possible. As regards the arrears of maintenance, the learned Principal Judge may fix some installments, however that should be a reasonable period.



This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

