

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.296 of 2020

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

Md. Tousif @ Tausif @ Tausif Raza S/o Md. Aiyub @ Md. Aiyub Alam R/o
village- Jogjan Bhag Ward No. 9, P.S.- Palasi, District- Araria

... .. Petitioner

Versus

1. The State Of Bihar
2. Bibi Shahjahan W/o Md. Tousif @ Tausif @ Tausif Reza, D/o Md. Yunus
R/o village- Raniganj, P.S.- (Araria R.S.O.P.), District- Araria
3. Md. Chand Minor S/o Md. Tousif @ Tausif @ Tausif Reza Minor Son of
O.P. No. 2 who represented through their Mother (O.P. No. 2) under legal
guardianship. R/o village- Raniganj, P.S.- (Araria R.S.O.P.), District- Araria
4. Md. Ali S/o Minor S/o Md. Tousif @ Tausif @ Tausif Reza Minor Son of
O.P. No. 2 who represented through their Mother (O.P. No. 2) under legal
guardianship. R/o village- Raniganj, P.S.- (Araria R.S.O.P.), District- Araria

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.
For the State : Mr.Md. Fahimuddin, APP.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-10-2022 No one appears for the petitioner.

Petitioner is aggrieved by and dissatisfied with the
order dated 17th December, 2019 passed by the learned Principal
Judge, Family court, Araria in Maintenance Case No. 338 of
2018.

By the impugned judgment, the learned court below
has allowed a maintenance of Rs. 3,000/- in favour of the
applicant-wife and Rs. 500/- only to each of the two minor
children. In this manner, a total sum of Rs. 4,000/- is to be paid
by the petitioner every month.



From the discussions available in the impugned judgment, this Court finds that in the court below both the parties were given opportunities to place their case and adduce their respective evidences. The husband-petitioner did not produce himself in course of evidence. On the other hand, the applicant-wife adduced oral evidence that her husband is engaged in hotel business at Delhi and earns Rs. 30,000/- per month.

The learned court below found that the husband had accepted the marriage and birth of both the children out of the said marriage. He claimed that he works physically as a labourer and earns his livelihood.

This Court finds from the materials available on the record that even if the case of the husband-petitioner is taken as if he is earning his livelihood by doing physical labour, the meagre amount of maintenance allowed by the learned court below is not required to be disturbed. It hardly comes to Rs. 130-135/- per day for three living beings and with this amount, it would be difficult for even a single person to get both times meal.

In the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**, the



Hon'ble Supreme Court has considered this aspect of the matter and observed in paragraph '10' as under:-

“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In *Chaturbhuj v. Sita Bai reported in (2008) 2 SCC 316*, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

In the given facts and circumstances, this revision application is dismissed.

If the petitioner has not paid the maintenance amount to his wife and two minor children for all these years, he would also pay a cost of Rs. 25,000/-(Rupees Twenty Five Thousand



Only) together with the arrears of maintenance and the current maintenance. The learned Principal Judge, Family court, Araria shall realise the entire amount through the process of court as expeditiously as possible.

(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'.

