

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.449 of 2019**

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

MD. MISTER ANSARI Son of Late Liyaquat Ansari Resident of Village -
Taradih, P.s.- Katoria, Distt.- Banka.

... .. Petitioner

Versus

1. The State of Bihar
2. Zaheeda Bibi @ Rani W/o Md. Mister Ansari , D/o sharfuddin Ansari,
Resident of Village - Mohalla - Bathana Bazar, P.S.- Simultalla, Distt.-
Jamui.

... .. Opposite parties.

Appearance :

For the Petitioner/s	:	Mr. Rajib Ranjan Jha, Advocate
For the Respondent/s	:	Mr. Uday Pratap Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 10-10-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

This revision application has been preferred for
setting-aside the judgment dated 6th March 2019 passed by
learned Principal Judge, Family Court, Jamui in Maintenance
Suit No. 14M/2015.

It appears that the applicant-wife filed an application
under Section 125 Cr.P.C. in which she prayed for award of
maintenance. She alleged that her husband has completely
neglected and deserted her. She also alleged that she had no
source of income whereas her husband is carrying tailoring shop
at Delhi and earns at least Rs. 30,000/- per month besides
having two bighas of fertile cultivable land.



In the learned court below, the applicant adduced herself as a witness. She was supported by two other witnesses and one of them (P.W.-3) is an independent witness. The independent witness has also supported the case of the prosecution on the point of marriage, torture as well as the quantum of income of her husband.

The opposite party also adduced his evidence and brought two other witnesses in his support. He has admitted the marriage but denied his income and claimed that he is an unemployed person.

In the above circumstances, a question arises as to whether this Court should interfere with the amount of maintenance awarded to the applicant-wife who is O.P. No. 2 in the present case.

This Court having perused the materials available on the record, finds that the marriage between the parties is not in dispute. There is no denial that out of the wedlock between the petitioner and the O.P. No. 2, two children were also born. The O.P. No. 2 has lodged Complaint Case bearing No. 2032C/2014 against the petitioner for the offences alleged under Section 498A I.P.C. and 3/4 of the Dowry Prohibition Act. The husband-petitioner has taken a plea that he had never demanded any



dowry and it was the wife who had escaped from his house to live at her maike. He has stated that the applicant's father has the shop of auto-part at Simultallah but has not adduced any evidence to show that the O.P. No. 2 has any independent source of income. He has, though, stated that he is a heart patient and his treatment is going on at Vellor (Chennai), this Court finds that he had not produced any material, much less any evidence at all to support his bald statement on this point. Under these circumstances, so far as the plea of unemployment is concerned, this Court is of the considered opinion that the petitioner has a duty to maintain his wife which he has apparently failed to perform in this case. Recently, 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 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 present case, the amount of maintenance is only Rs. 3,000/- per month which hardly comes to Rs. 100/- per day. This Court finds no reason to interfere with this meager sum of maintenance.

While dismissing this writ application, this Court would observe that, in case, the petitioner is not paying the amount of maintenance to his wife, he will be liable to pay an additional sum of Rs. 25,000/- as cost which will be realized from him together with the arrears of maintenance. This Court is imposing cost after having noticed that the maintenance suit was filed in the year 2015 and in case, the petitioner has deprived his wife from getting this meager sum of Rs. 3,000/- per month and left her to live in a state of destitution and kept her engaged in



litigation all these years, he must be held liable to pay an additional sum by way of cost.

Let the learned Principal Judge, Family Court, Jamui execute the impugned judgment and cost as expeditiously as possible.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-lekhi/-

U		T	
---	--	---	--

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'.

