

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1213 of 2016

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Sahadat Hussain @ Md. Sahadat Hussain Son of Didar Munshi Resident of
Village- Sonapur, P.O. Abadpur, P.S. Abadpur, District- Katihari.

... .. Petitioner

Versus

1. The State Of Bihar
2. Farhana Khatoon Wife of Sahadat Hussain , D/o Md. Farooque Resident of
Village- Bhawanipur, P.S. Abadpur, District- Katihar.
3. Suleman Son of Sahadat Hussain Opposite Party No. 3 is minor and he is
represented by her opp. Party no. 3 is minor and he is represented by her
mother i.e. natural guardian who is opp Party No. 2, Both are resident of
Village- Bhawanipur, P.S. Abadpur, District- Katihar.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr.
For the State : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-11-2022

I.A. No. 2301 of 2016

This interlocutory application has been filed seeking
condonation of delay.

For the reasons stated therein, the delay is condoned.

No one appears for the petitioner.

Considering that this matter relates to the payment of
maintenance to a neglected wife and minor child and the
revision application has remained pending for six years and at
this stage, there is no representation on behalf of the petitioner,
this Court deems it just and proper to dispose of the revision
application on its own merit.



The petitioner is aggrieved by and dissatisfied with the order dated 01.03.2016 passed by learned Principal Judge, Family Court, Katihar. By the impugned judgment, the learned court has been pleased to allow a maintenance of Rs.3,000/- per month to the applicant-wife and Rs.1,000/- per month to the minor son.

On perusal of the impugned order, it appears that in this case, notice was issued to the opposite party-husband but he did not appear and the case was heard ex-parte. The applicant-wife adduced her evidence and she was supported by two other witnesses. The husband of the applicant-wife works as a mason and it is claimed that he is engaged in contract work and thereby earning Rs.50-60,000/- per month.

This Court is of the considered opinion that the award of a paltry sum of Rs.3,000/- per month to the applicant-wife and only Rs.1,000/- per month to the minor son needs no interference. 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.”

Considering the entirety of the facts and circumstances, this Court would not interfere with the impugned judgment.

This application is dismissed.

(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'.

