

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.84 of 2018**

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

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Ritesh Kumar @ Ritesh Kumar Jha S/o Sri Surya Mohan Jha, R/o village-  
Dumaria, P.S.- Godda, District- Godda (Jharkhand).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Guddi Devi @ Jha W/o Ritesh Kumar, D/o Sri Nakul Jha,
3. Shreya Kumari D/o Ritesh Kumar (Minor Represented through her mother  
Guddi Devi). Both R/o Village- Katarea, P.S.- Kursela, District- Katihar  
(Bihar).

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Satish Chandra Jha-3, Adv. |
| For the O.P.No.1     | : | Mr. Manoj Kumar – 1, APP      |
| For the O.P.Nos.2&3  | : | Mr.Rabindra Nath Tiwari, Adv. |

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

13    01-08-2022                      Heard learned counsel for the petitioner and learned  
counsel for the opposite party nos.2 and 3.

Petitioner, in the present case, is aggrieved by and  
dissatisfied with the judgment dated 25.08.2017 passed in  
Maintenance Case No.301 of 2016 in exercise of power under  
Section 125 Cr.P.C. by the learned Principal Judge, Family  
Court, Katihar.

By the impugned judgment, the learned Principal  
Judge has allowed a maintenance allowance of Rs.4000/- per  
month to the petitioner no.1-opposite party no.2 and a sum of  
Rs.2000/- to his daughter (opposite party no.3).

Learned counsel for the petitioner has assailed the



impugned judgment on the grounds inter-alia that the case of the applicant-wife would not be covered under Section 125 Cr.P.C. It is his submission that this petitioner being the husband is always ready and willing to take care of his wife and the minor daughter and further that the petitioner has no independent source of income, he lives on the pensionary benefits of his father who has retired from Railways and in case the wife and the minor daughter lives with him in the family they can also be maintained with the income of his father.

Learned counsel submits that the learned court below has allowed the maintenance amount of Rs.4000/- and Rs.2000/- respectively without appreciating that the petitioner had no independent source of income.

On the other hand, learned counsel for the opposite party nos.2 and 3 submits that the opposite party no.2 had herself deposed in course of evidence as A.W.-3. In her examination-in-chief she has stated that after she gave birth to two female child, her husband started torturing her and at one point of time he demanded a sum of Rs.2 lacs from her father. It is stated that her father had provided a sum of Rs.1,50,000/- to her husband but on refusal to pay the rest of Rs. 50,000/-, her husband ousted her and her minor daughter outside the



matrimonial home.

Learned counsel further submits that as regards the income of her husband the applicant witness no.3 has stated that her husband is a contractor and earns at least Rs.1 lac per month from contract works. He has also got 50-60 bighas of land and has got a three storied pucca house which has been provided on rent. The rent income is said to be in between Rs.20,000-25,000 per month. A.W.-3 has stated that her husband is only one brother and his only sister is already married. His father has retired from Railways and gets pensionary benefits.

It is further submitted that in course of cross-examination of A.W.-3 no specific denial was taken as regards the income, occupation and other properties of the husband-petitioner. The petitioner set up a vague case that he is unemployed, but in course of evidence his father while deposing as O.P.W.-2 has stated that he was earlier working with the ITC Company. The another witness namely Kaushal Kishore Jha (O.P.W.-3) has stated in paragraph '3' of his examination-in-chief that Ritesh (the petitioner) was living with his wife and children at Deoghar where his father was working. In his cross-examination (paragraph '6') this witness has stated that Ritesh has got one two storied pucca house though he again stated that



this house was built by his father.

Having heard learned counsel for the petitioner and the opposite party nos.2 and 3, this Court finds that the first contention on behalf of the petitioner that Section 125 Cr.P.C. would not be attracted in this case, cannot succeed. There are allegations against the petitioner that he had committed cruelty upon his wife and minor daughter and had thrown them out from his matrimonial home. The proceeding under Section 125 Cr.P.C. is a summary proceeding and in such circumstance the court cannot hold a full-fledged trial to adjudicate on this issue. The prima-facie evidence is showing that the petitioner had neglected his wife and minor children.

On the point of income of the petitioner, this Court finds that there are materials to show that the petitioner was earlier working with the ITC. He has set up a case of unemployment for the present but at the same time he himself states that he is ready to maintain his wife and the daughter out of the income which the family has from the pensionary benefits of his father. In course of evidence, it has come that the petitioner has no other liability and he has got at least a two storied pucca house. There is no suggestion even thrown to the witnesses that the said house has not been rented and there is no income from



the same.

In these circumstances, when this Court considers quantum of maintenance allowance given to the wife and minor childr, this Court finds that a sum of Rs.4,000/- and Rs.2,000/- respectively is a meagre amount and in the present day's circumstance any husband having an income in the lower side would also be liable to pay at least this much of the amount to his wife and minor children. The petitioner has not paid a single farthing to his wife and minor daughter even as the revision application remained pending in this Court without there being any stay of the operation of the impugned judgment.

In the totality of the circumstances, this Court finds no reason to interfere with the impugned judgment. This application is, thus, dismissed.

Let the learned Principal Judge, Family Court, Katihar proceed to enforce the impugned judgment in accordance with law.

**(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'.

