

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.593 of 2018**

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

Md. Perwez @ Md. Perwez Alam S/o Md. Hatim, R/o Vill.- Khaira Garhia,
P.S.- Narpatganj, District- Araria.

... .. Petitioner

Versus

1. The State Of Bihar
2. Bibi Shakina Perveen W/o Md. Perwez D/o Md. Alam @ Md. Perwez Alam,
3. Bibi Akila Perveen age 3 Month, Opposite Party No.2 is D/o Md. Perwez @
Md. Perwez Alam under the care and Guardianship of her Mothe R/o Vill.-
Sisua Uttar Madhura, P.S.- Narpatganj, District- Araria.

... .. Respondents

Appearance :

For the Petitioner/s : Md. Najmul Hodda, Advocate
For the Respondent/s : Mr.Bharat Bhushan, APP

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

4 12-08-2022 Heard learned learned counsel for the petitioner and Mr.
Bharat Bhushan, learne A.P.P. for the State.

The petitioner is aggrieved by and dissatisfied with the judgment dated 17.02.2018 passed by the learned Principal Judge, Family Court, Araria in Maintenance Case No.109 of 2014 by which the learned court has been pleased to direct the opposite party-husband to pay a monthly maintenance allowance of Rs. 4000/- to the applicant no.1-wife and Rs. 2000/- per month to applicant no. 2 who is the minor daughter of the petitioner till her marriage from the date of judgment.

Learned counsel for the petitioner submits that the petitioner is a poor person and cannot pay that much of amount to his



wife and his minor daughter.

Learned APP for the State submits that the learned Principal Judge, Family court has discussed issue nos. I and II which were taken to be the core issue of the case. Under issue no. I it has been decided that the applicant no. 1 is the legally wedded wife of the opposite party-husband and under issue no. II it has been held that this petitioner being husband has neglected his wife and his minor daughter. Issue no. III is with regard to the quantum of maintenance.

It is pointed out that the petitioner had lived with applicant no. 1 for about 7 years and a female child was born out of the said wedlock but thereafter this petitioner got a second marriage performed and left his legally wedded wife i.e. the applicant no. 1. Even the applicant witnesses have supported this fact. The applicant-wife and the minor daughter of the petitioner are living in a state of penury and despite there being a judgment of the court since 17.02.2018, no money has been paid to them.

Learned APP further submits that in fact the maintenance amount should have been allowed from the date of the application but the learned Principal Judge, Family Court, Araria has allowed the maintenance from the date of judgment. It is submitted that since Section 125 Cr.P.C. is a piece of social legislation and it has been specially incorporated in the statute book to help the ne-



glected women and children, this Court may exercise its equitable jurisdiction to correct the wrong and make the maintenance amount applicable with effect from the date of the application.

Learned APP has relied upon the judgment of the Hon'ble Supreme Court in the case of **Rajnesh v. Neha & Ors.** reported in **(2021) 2 SCC 324**.

Having heard learned counsel for the petitioner and learned APP for the State, this Court is of the considered opinion that the learned Principal Judge, Family Court, Araria has rightly appreciated the deposition of the witnesses who were examined on behalf of the applicant and again the deposition of the witnesses who were examined on behalf of the husband-petitioner. There is no iota of doubt that the applicant no. 1 happened to be the legally wedded wife of the petitioner and applicant no. 2 is his minor daughter. The evidence has come that the petitioner has performed a second marriage with another lady and thereafter, he had driven out his wife and minor daughter from the matrimonial home.

This Court further finds that the amount of maintenance awarded to the applicants are meager some of Rs. 4000/- and Rs. 2000/- per month which cannot be by any stretch of imagination said to be an unreasonable amount. Even an unskilled worker these days earns sufficient means so as to spend at least Rs. 6000/- per month on his wife and minor daughter.



This Court also finds substance in the submission of learned APP for the State that the maintenance awarded to the applicants should have been allowed with effect from the date of the application and not from the date of the judgment.

This Court being a constitutional Court having noticed the kind of discrepancy is of the considered opinion that the justice requires that the impugned judgment be made applicable with effect from the date of the application.

This revision application is disposed of. There will be no interference with the impugned judgment. The impugned judgment is modified to the extent that it will be applicable with effect from the date of the application under Section 125 Cr.P.C.

The learned Principal Judge, Family Court, Araria shall proceed to realize the entire outstanding amount and current amount of maintenance from the petitioner 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'.

