

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.975 of 2018**

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

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Ramesh Prasad Malakar @ Ramesh Malakar @ Ramesh Mali, S/o Late Chuhai Malakar @ Late Chulahi Mali, resident of Mohalla- Shikarpur, Patna City, P.S.- Jhauganj, District- Patna.

... .. Petitioner

Versus

Sudha Devi, W/o Ramesh Prasad Malakar, resident of Mohalla- Shikarpur, Patna City, P.S.- Jhauganj, District- Patna. Presently residing of Mohalla- Aziz Ghat, P.S. Bihar, P.O. Biharsharif, District- Nalanda.

... .. Respondent

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Appearance :

For the Petitioner : Mr. Shyamal Prakash, Advocate
For the State : Mr. Ashok Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 15-07-2022 Heard learned counsel for the petitioner.

Petitioner is aggrieved by and dissatisfied with the order dated 21.03.2018 passed by learned Principal Judge, Family Court, Biharsharif, Nalanda in Miscellaneous Case No. 39 of 2007.

It appears that by the impugned order, the learned court below has enhanced the amount of maintenance by a sum of Rs. 2,000/- per month keeping in view the fact that earlier the maintenance of a sum of Rs. 2,000/- was fixed on 23.06.2014 and thereafter the price index had gone up.

Learned counsel for the petitioner submits that the learned court below has not at all considered the case of the



husband-petitioner. It is the stand of the petitioner on the strength of Annexure '4' to the present application that the opposite party namely Sudha Kumari, Daughter of Vasudeo Prasad, resident of Soh Salempur, P.S.-Sohsarai, District-Nalanda is engaged as a Home Guard and she is herself earning sufficiently to maintain herself. It is his submission that had the learned court below considered the stand of the husband-petitioner as stated in his reply dated 16.02.2016, the truth could have come on the record.

It is submitted that in his reply, the petitioner had specifically submitted that the applicant-wife is getting sufficient honorarium from the government for her maintenance.

A perusal of the reply (Annexure '4') of the present application does show that the husband-petitioner had taken the plea but in the impugned judgment the same has not been considered.

Keeping in view the submission of learned counsel for the petitioner that presently the petitioner is paying a sum of Rs. 2,000/- per month to the opposite party, this Court directs that he will continue to pay the same amount presently. Liberty is granted to the petitioner to file an appropriate application in the learned court below for modification/alteration of the order dated



21.03.2018. If such an application is filed within a period of 45 days from today, the learned court below shall consider the same keeping in view the judgment of the Hon'ble Supreme Court in the case of **Rajnish versus Neha & Ors.** reported in **(2021) 2 SCC 324** and shall decide the same after due notice to the applicant-wife.

It is expected that the application for modification shall be disposed of within a period of four months from the date of communication of this order.

Liberty is granted to both the sides to raise all such contentions which may be available to them. Subject to further order of the learned court below the execution of the order of enhancement shall be kept in abeyance.

This application stands disposed of accordingly.

(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'.

