

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.419 of 2015

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

Akhilesh Yadav S/o Late Satya Narayan Yadav, R/o village Madhukar Chak,
Bhatta, Naya Tola, P.S. Bihariganj, District Madhepura.

... .. Petitioner

Versus

1. The State Of Bihar
2. Neelam Devi, D/o Shiv Prasad Yadav, W/o Akhilesh Yadav, R/o village PO-
Kukaran-2, P.S. Dhamdaha, District Purnea.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

20 10-11-2022 Heard learned counsel for the petitioner. No one
appears for the opposite party no. 2.

Petitioner, in the present case, is aggrieved by and
dissatisfied with the order dated 28.04.2015 passed by learned
Principal Judge, Family Court, Purnea in Maintenance Case No.
199/2008. The said maintenance case was filed by the opposite
party no. 2 on her own behalf and on behalf of her minor son
Prince Kumar and minor daughter Preety Kumari. The
application under Section 125 Cr.P.C. was entertained and after
allowing both the sides to adduce their respective evidences, the
learned Principal Judge, Family Court, Purnea has, vide
impugned order allowed the application awarding a sum of Rs.
3500/- per month to the wife and her two minor children



towards maintenance. It is this order which is under challenge in the present writ application.

Learned counsel for the petitioner submits that in this case admittedly the marriage between the petitioner and opposite party no. 2 was solemnized in the year 1990 but from the said wedlock the first child was born after eight years of marriage.

It is submitted that in the meantime the husband had solemnized a second marriage with consent of the first wife.

Admittedly the husband-petitioner is a government employee posted as Postal Peon known as EDMC-II at Bihariganj – Madhukar Chak Post Office. It is an admitted position appearing from Annexure '3' to the supplementary affidavit that in the year 2015 the petitioner was having a salary of Rs. 9681/- and after deductions his take home salary was Rs. 7758/- per month.

In the learned court below the applicant-wife deposed as P.W.1. She has stated in her examination-in-chief that she was married with the present petitioner on 04.03.1990 and had given birth to two children after the said wedlock but her husband solemnized a second marriage and threw her out from the matrimonial house after assaulting her for which she had filed a



case under Section 498A of the Indian Penal Code.

She has further deposed that her husband had brought her to his house after compromising the case but only after three months again she was assaulted and was ousted from the house. She submitted that she had no independent source of income. The other two witnesses who deposed on behalf of the applicant-wife supported the case of the applicant-wife.

On behalf of the husband-petitioner, the petitioner himself deposed as O.P.W.5. He has accepted the marriage but his case was that after the marriage his wife used to reside only for five days in a month in his house and most of the time she was going to her parents house. He made allegation that his wife used to abuse him and for some time ready to assault him. He admitted that his wife had lodged criminal cases against him. He further admitted his income as postal peon but claimed that his wife is having a daily income of Rs. 600 – 700 by doing sewing work but in cross examination this witness could not substantiate his claim that his wife had got any independent source of income. He has admitted that he had not given any money to his wife and children towards maintenance.

After thoroughly analyzing the evidences on the record, the learned court below awarded a sum of Rs. 3,500/-



per month for the wife and two children meaning thereby that each of of them hardly got Rs. 1200/- per month towards maintenance which comes to Rs. 40 per day approximately.

It appears from the first order passed by this Court on 24.09.2015 that on the said date a misleading submission was made on behalf of the petitioner saying that the petitioner earns only Rs. 5,000/- per month and, therefore, it is not possible to pay Rs. 3,500/- per month to the opposite party no. 2, whereas the fact was that the petitioner had approximately a salary of Rs. 10,000/- and was taking home a sum of Rs. 7780/- approximately. The conduct of the petitioner in making wrong submissions before this Court is liable to be deprecated.

Having regard to the facts and circumstances of the case, the materials available on the record and the judgment of the Hon'ble Supreme Court in the case, one of which is a recent judgment is **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**. Paragraph '10' speaks 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.”

This Court finds no error in the impugned order. The impugned order needs no interference. It is dismissed, accordingly.

For keeping this Court engaged in this revision application for over seven years on the strength of a misleading submission made at the very first date, this Court imposes a cost of Rs. 25,000/- upon the petitioner which he would be liable to pay to his wife together with the arrears of maintenance.

The learned Principal Judge, Family Court, Purnea shall realize the entire amount as expeditiously as possible, if required, by directing the employer of the petitioner to deduct the amount in reasonable installments as may be fixed by the learned Principal Judge from his salary.

Needless to say that during pendency of this revision application whatever has been paid by the petitioner shall be



adjusted against the total amount found payable by the
petitioner.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

