

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.1035 of 2019**

Arising Out of PS. Case No.- Year-0 Thana- District- Siwan

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Sunil Kumar Tripathi, Son of Sabhapati Tripathi Resident of 138, Near Shiv Mandir, Naya Colony, P.S.- Kotwali, Distt - Deoria (U.P.)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shakuntala Devi D/o Vint Manan Tiwary Resident of Village - and Post - Shrikarpur, P.S.- Guthani, Distt - Siwan.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Syed Ashfaque Ahmad, Adv.  
For the State : Mr.Abhay Kumar Roy, APP

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

3      20-09-2022                      Heard learned counsel for the petitioner and learned APP for the State.

Petitioner in this case is seeking setting aside of the impugned judgment dated 01.06.2019 passed in Maintenance Case No.47/2013 by learned Principal Judge, Family Court, Siwan. By the impugned judgment, the learned court below has directed the petitioner to pay a sum of Rs.2,000/- per month as maintenance to his wife and Rs.1000/- to each of the two minor sons with effect from the date of the application i.e. 02.11.2013.

Learned counsel for the petitioner has submitted that this petitioner is unemployed, his father is retired as a sub-inspector and the family is running on the pension amount of his



father. The petitioner further claimed that he is under treatment for mental illness. It is further submitted that the applicant-wife did not prove the income of the petitioner.

On the other hand, learned APP for the State has drawn the attention of this Court towards the findings recorded by the learned Principal Judge, Family Court, Siwan in the impugned order. Learned counsel submits that the applicant-wife has deposed that she along with her two minor sons were thrown out of the matrimonial house on account of a dispute arising out of demand of dowry. She claimed that the petitioner assaulted her and retained all her *Stridhan*. She further deposed that the petitioner is engaged in contract work at Delhi and is also having some cultivable land. He has got kirana shop at Deoria and other properties. The evidence adduced on behalf of the applicant-wife was duly supported by her mother. It is further pointed out that only a vague and bald kind of plea was taken in the learned court below on behalf of the opposite party saying that he is under treatment for mental illness. No evidence either documentary or oral having some credibility could be produced on behalf of the opposite party.

Learned APP submits that the learned court below has rightly held that the applicant-wife and the two minor children



are entitled for maintenance. On the question of quantum of maintenance, the learned court below has awarded a meagre sum of Rs.2,000/- to the applicant-wife and Rs.1000/- to each of the two minor sons. It is his submission that even a daily wage earner may part with a sum of Rs.135/- per day only for three members of his family which hardly comes to Rs.45/- each person per day. It is his submission that considering the quantum of maintenance allowed by the learned court below, no illegality or infirmity may be found with the impugned judgment. It is his further submission that the conduct of the petitioner in not paying this meagre amount to his wife and two minor children needs to be deprecated and appropriate cost be imposed upon him for not paying this amount to the applicant for about nine years by now.

Having regard to the submissions noted hereinabove and the materials present on the record, this Court finds substance in the submission of learned APP for the State. The petitioner has not come clean in this Court. In the learned court below he did not produce any evidence to believe his case of mental illness. He though agreed that he has a pucca big house in Deoaria town but did not bring the details of his properties before the learned court below. It was within his special



knowledge but he did not disclose the same. The learned Family Court has, in such circumstances, adopted the principle of best judgment award and has directed the petitioner to pay only a meagre sum of Rs.2,000/- to his wife and Rs.1000/- to each of the two minor sons. By no stretch of imagination this amount may be said to be excessive.

This Court finds that the conduct of the petitioner in not paying this amount to his wife and minor sons is such that it would call upon this Court to impose a cost of Rs.25,000/- upon the petitioner for keeping his own wife and two minor sons engaged in litigation without giving them any maintenance.

Let the entire amount of arrears of maintenance as well as the current maintenance and the cost of Rs.25,000/- imposed by this Court be realized from the petitioner as early as possible.

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'.

