

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.419 of 2019**

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

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SANTOSH SAH @ SANTOSH KUMAR Son of Bhikhari Sah Resident of
Village - Sikta, Ward No. 5, P.S.- Sikta, Distt - West Champaran.

... .. Petitioner/s

Versus

Kanchan Devi Wife of Santosh Sah, Resident of Village - Sikta, Ward No. 5,
P.S.- Sikta, Distt - West Champaran. D/o Madan Prasad, Resident of Viillage -
Sheohar, Ward No. 6, P.S.- Sheohar, Distt - Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kr Singh No.1, Adv
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 15-12-2023 Heard learned Advocate for the petitioner as well as

learned APP for the State.

2. An order dated 8th of February, 2019 passed in
Miscellaneous (Maintenance) Case No. 01 of 2018 is under
challenge at the instance of the petitioner/husband. By passing
the order, the learned Principal Judge, Family Court, Sheohar
directed the petitioner/husband to pay maintenance @ Rs.
4,000/- per month to the applicant and Rs. 2,000/- per month to
her two minor children towards an interim maintenance and
litigation cost of Rs. 1,000/- per month till the disposal of the
maintenance case, the total being Rs. 7,000/- per month.

3. In the impugned order, it is recorded by the learned



Magistrate that the opposite party, in his rejoinder, admitted that he earns Rs. 5,000/- per month. It is also recorded by the learned Judge that the Opposite Party No. 2 failed to produce any document in support of his claim that the present petitioner has a sweet shop in Nepal and he earns a considerable amount of money through the said business. Thus, at the interim stage, the learned Judge ought to have considered the interim maintenance on the basis of the expected income of the opposite party, which, according to the learned Judge is Rs. 5,000/-.

4. For the reasons stated above, this Court is of the view that when the monthly income of the opposite party is Rs. 5,000/-, he cannot be burdened to pay Rs. 7,000/- per month beyond his income. Therefore, the order dated 8th of February, 2019 is set aside. The petitioner is directed to pay in all a sum of Rs. 3,000/- per month from the date of passing of the impugned order within 10th day of each succeeding month till the disposal of the Maintenance Case No. 01 of 2018.

5. The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J)

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