

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.491 of 2017

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

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Malti Devi, Wife of Harishchandra Singh, D/o Raghunath Singh, Resident of
Village- Siaruan, Police Station- Sanjhauli, District- Rohtas. Petitioner
Versus

1. The State of Bihar
 2. Harish Chandra Singh, Son of Late Ramraj Singh, Resident of Village-
Gothani, P.O. and P.S.- Surajpura, District- Rohtas.
- Opposite Parties
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Appearance :

For the Petitioner	:	Mr. Dhaneshwar Prasad Gupta, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Rang Nath Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 05-10-2023 Heard learned counsel for the petitioner and learned
counsel for the Opposite Party No. 2 as also learned APP for the
State.

2. This revision application has been filed for setting
aside the order dated 21.03.2017 passed by learned Principal Judge,
Family Court, Rohtas at Sasaram in Maintenance Case No. 126 of
2009 whereby and whereunder the learned Principal Judge has been
pleased to dismiss the maintenance case filed under Section 125
Cr.P.C.

3. Learned counsel for the petitioner submits that the
learned Principal Judge could not appreciate that there is an
admitted husband-wife relationship between the parties and the
husband-O.P. No. 2 is an able-bodied person who is under
obligation to maintain his wife. Reliance in this regard has been



placed on the judgment of the Hon'ble Apex Court in the case of **Anju Garg and Another versus Deepak Kumar Garg** reported in **2022 SCC Online SC 1314** wherein it has been held that an able-bodied person is under obligation to maintain his wife even by working as labourer.

4. Learned counsel further submits that in course of evidence, the nephew of the husband was examined as a witness on his behalf. He has stated that the husband-Opposite Party No. 2 has got at least 9 kathas of land. It is submitted that learned court below is not justified in rejecting the maintenance case on the ground that the petitioner had not established physical relationship with her husband and/or that she had not produced any income related paper.

5. Learned counsel for the husband-O.P. No. 2 submits that the husband is an unemployed person, he works as a labourer only and is engaged in cultivation of land as a labourer from which he does not earn enough money. Learned counsel, however, submits that in order to show good gesture, the husband is ready to pay a sum of Rs.2,000/- per month to his wife and in future if his income increases, he will consider paying something more.

6. Having regard to the facts and circumstances of the case and the kind of submissions noted hereinabove, this Court is of the considered opinion that the learned Principal Judge, Family Court has completely erred in appreciating the materials available



on the record as also the principles laid down by the Hon'ble Supreme Court in the case of **Anju Garg** (supra). The impugned order is not sustainable and is liable to be set aside.

7. This Court, accordingly, sets aside the impugned order.

8. Considering the fact that the husband is an able-bodied person and he is working as a labourer, this Court is of the view that a reasonable amount must be awarded to the wife-petitioner. Although the husband-Opposite Party No. 2 has offered to pay Rs.2,000/- per month as maintenance, this Court is of the considered opinion that a reasonable amount would be at least Rs.3,000/- per month. Accordingly, this Court directs that the husband-O.P. No. 2 shall pay a sum of Rs.3,000/- (Rupees Three Thousand Only) per month to the wife-petitioner as maintenance. Such amount shall be paid in the account of the petitioner within first ten days of every month, failing which it will be open for the petitioner to execute the order in the court below in accordance with law.

9. This application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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