

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.22 of 2020

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

MD. JAAFAR HUSSAIN Son of Md. Allauddin Resident of Village -
Satsanda, P.s.- Halsi, Distt.- Jamui.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Shabnam Khatoon D/o Md. Mukhtar, W/o Md. Jaafar Hussain Present
Resident of Village - Bhachiar, P.S.- Jamui, Distt.- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Akash Raj, Advocate Ms. Nikita Mithilesh, Advocate
For the Respondent/s	:	Mr. Madhuri Lata, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 09-02-2024 The instant Revision is directed against an order dated 23rd November, 2019 passed in Maintenance Suit No. 201M of 2014 by the learned Principal Judge, Family Court, Jamui in a proceeding under Section 125 of the Cr.P.C. challenging the quantum of maintenance payable by the petitioner to his wife/opposite party.

2. Indisputably, the petitioner is working as a labour in Oman. It is contended by the opposite party that petitioner earns Rs. 40,000/- to 50,000/- per month working under Bhawani Company at Oman. He has some landed properties from which he has also considerable income.

3. Learned trial court relying on the petition under Section 125 of the Cr.P.C and the evidence adduced by the witnesses on behalf of the petitioner granted maintenance allowance at the rate of Rs. 7,000/- per month.



4. It is contended on behalf of the petitioner that the petitioner works as a labour at Oman under a written bond of two years. He does not get salary of Rs. 40,000/- to 50,000/- as alleged by the opposite party no.2. Neither of the parties could produce any document in support of their assets and liabilities.

5. It is needless to say that while disposing of an application under Section 125 of the Cr.P.C., the trial court is required to adjudicate the following issue :-

(I) Whether the petitioner is the legally married wife of the opposite party.

(II) Whether the opposite party refuses or neglects to maintain his wife.

(III) Whether the petitioner has any means to maintain herself.

(IV) Whether the opposite party has sufficient means to maintain his wife.

(V) If yes, what will be the quantum of amount.

6. It is contended by the learned Advocate for the petitioner that the trial Judge fix the quantum of maintenance allowance only on the basis of oral evidence of the petitioner. The petitioner failed to prove the income of the opposite party in course of her evidence. At the same time, the opposite party who is the petitioner before this court has also failed to produce any document showing his income.



7. For the reasons stated above, this court is of the view that the parties should be directed to file affidavits of assets and liabilities as per the guideline laid down in ***Rajnesh vs. Neha*** reported in ***(2021) 2 SCC 324*** within one month from the date of communication of this order in the trial court. The trial court shall on the basis of affidavits and assets and liabilities filed by the parties determine the quantum of maintenance payable by the petitioner in favour of the opposite party. Entire action is required to be completed within two months from the date of the communication of this order.

8. The petitioner is at liberty to act on the server copy of this order.

9. In view of the above order, the order of maintenance granted in favour of the opposite party is modified directing the petitioner to pay Rs. 4,000/- per month till the disposal of the maintenance case case within 15th of each succeeding month. With the following, the order passed in Maintenance Case No. 101M of 2014 is modified and the instant Revision is disposed of.

(Bibek Chaudhuri, J)

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