

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1336 of 2018

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

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Ajit Kumar Singh son of Late Ram Shrest Singh, resident of Village- Soniawa Police Station- Dulhin Bazar District Patna, at present resident of Tangra Toli, Bank Colony, P.S. Booty More, Near Maxpol Factory, Buti, Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. Indu Devi and Anr wife of Ajit Kumar Singh Daughter of Shambhu Singh, resident of Village- Uchausi, Police Station- Madanpur, District- Aurangabad.
2. Jiya Kumari Daughter of Ajit Kumar Singh under the guardianship of her natural guardian i.e. mother namely Indu resident of Village- Uchausi, Police Station- Madanpur, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Pramendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 08-04-2024

The instant revision is directed against an order dated 23rd August, 2018, passed in Misc. Case No. 4 of 2016, under Section 125 of the Cr.P.C. by the learned Principal Judge, Family Court at Aurangabad.

2. When the matter is taken up for hearing, the learned Advocate for the petitioner was absent. The petitioner was not represented in spite of repeated call.



3. The learned Advocate for the opposite party is present.

4. I have heard the learned Advocate for the opposite party. I have also perused the impugned order as well as other materials on record.

5. The learned Principal Judge, Family Court at Aurnangabad while disposing of the application under Section 125 of the Cr.P.C., directed the petitioner to pay maintenance @ Rs. 4500/- per month for the opposite party and the minor daughter of the parties.

6. The petitioner has challenged the quantum of maintenance in the instant revision on the ground of his financial hardship.

7. It is contended by the petitioner in the trial court as opposite party that he works in a Private Firm and earns Rs. 7100/- per month.

8. On the other hand, the petitioner states that he has a business of selling coal. He is also owner of a truck and he has substantial income to maintain his wife and minor child.

9. The trial court directed the petitioner to pay a sum of Rs. 4500/- per month. Indisputably, the parties did not file any document before the trial court showing the income of the



petitioner. It is not in dispute that the opposite party/wife has no source of income. She is dependent upon her paternal home.

10. It is held by the Hon'ble Supreme Court in *Anju Garg Vrs. Deepak Kumar Garg, reported in AIR online 2022 SC 306* that where the parties failed to produce any document with regard to income of the husband, such income of the husband may be assessed on the basis of Minimum Wages Act. The same principle is subsequently relied on by the Allahabad High Court in the case of *Kamal Vrs. State of U.P. Through Secy. Home, Lko And Another (2024:AHC-LKO:7461)*, being the Criminal Revision No. 461 of 2023, delivered on 25th January, 2024.

11. In view of such circumstances, I have no other alternative but to hold monthly income of the petitioner to Rs. 12,000/- notionally.

12. Petitioner was directed to pay Rs. 4500/- per month for the maintenance of his wife and the minor child. The amount of maintenance is absolutely thus proper and almost 1/3 of the notional income of the petitioner.

13. Therefore, I do not find any illegality or impropriety in the impugned order dated 23rd August, 2018, passed in Misc. Case No. 4 of 2016, by the learned Principal Judge, Family Court, Aurangabad.



14. The impugned order is affirmed. The instant criminal revision is accordingly dismissed.

(Bibek Chaudhuri, J)

pravinkumar/-

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