

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.90 of 2022

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

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Abhishek Pandey Son of Kaushal Kishore Pandey Resident of Village-
Someswar Nath Colony near R. M. College, P.S.- Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

Priyanka Pandey Daughter of Yugal Kishore Pathak Resident of Village- West
Sondrapur, P.S.- Keshariya, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Adv. Mr. Hemant Ray, Adv. Mr. Abhishek Kumar, Adv.
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 19-03-2024 The instant revision is directed against the order dated

26.11.2021 passed by the learned Principal Judge, Family Court,

East Champaran at Motihari in Maintenance Case No. 145 of

2018 being a proceeding under Section 125 of the Cr.P.C.

2. It is not in dispute that the marriage of the
petitioner was solemnized with the opposite party under Hindu
rites and rituals on 26.11.2015. It is alleged by the opposite
party as petitioner in the Trial Court that after marriage, her
husband demanded an Alto Car or Rs. 5 lakh as the
consideration money of the said Alto Car. The father of the
petitioner paid a sum of Rs. 2 lakh to the opposite party.
However, she was driven away from her matrimonial home on

13.11.2017. It is also not in dispute that in the wedlock between the petitioner and the opposite party, a child was born and he has been staying with his mother.

3. The learned Principal Judge, Family Court, East Champaran at Motihari directed the petitioner to pay maintenance at the rate of Rs. 10,000/- per month for the opposite party and Rs. 2,000/- per month for their child, total being Rs. 12,000/- per month.

4. In paragraph 7 of the impugned judgment, the learned Trial Judge himself recorded:-

“ From perusal of evidences adduced on behalf of the opposite party, it also appears that there is no any document on record to show that the opposite party/respondent has any fixed and certain income. It has been submitted by the learned counsel for the petitioner that the petitioner has filed Matrimonial Appeal before the High Court against the judgment and decree passed by the Family Court, Hajipur and it has been further submitted that the opposite party/respondent works in private company at Kolkata earns sufficient amount and he is capable to pay the maintenance amount as required by the petitioner.”

5. However, the opposite party herein could not state the name of the private company where the petitioner used to work. She also did not state specific income of the petitioner, therefore, in my considered view, there is no evidence on record

for fixing maintenance allowance at the rate of Rs. 12,000/- per month payable by the petitioner in favour of the opposite party.

6. For the reasons stated above, the instant revision is allowed.

7. The impugned order passed by the learned Principal Judge, Family Court, East Champaran at Motihari is set aside. The learned Principal Judge, Family Court, East Champaran at Motihari is directed to re-hear the Maintenance Case No. 145 of 2018 giving opportunity to the petitioner to file evidence, either orally or documentary to prove his monthly income. Only on such proof, the Trial Court shall determine the maintenance allowance which the opposite party is entitled to get.

8. Since, the petitioner has not denied his responsibility to maintain his minor child, the petitioner shall without prejudice to the rights and contention that may be raised in future, therefore, he is directed to pay maintenance allowance at the rate of Rs. 5,000/- per month for the minor child of the parties from the date of this order.

(Bibek Chaudhuri, J)

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