

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 273 of 2024**

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

Akhilesh Choudhary Son of Sri Bindeshwar Choudhary Resident of vill. and
P.O.-Kakraul, P.S.-Rahika, Distt.-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chanda Choudhary Wife of Akhilesh Chaoudhary, D/O Sri Viveka Nand
Mishra Resident of vill.-Nayagaon, P.S.-Raiyam, Distt.-Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Ranjan Kr Jha, Subhash Kr Jha, Advocates
For the S t a t e	:	Mr Md Mushtaque Alam, APP
For Opposite Party No 2 :		M/s Sudama Singh, Shashi Kant, Advocates

**CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT**

Date : 26-11-2024

This revision petition has been preferred by the petitioner-husband being aggrieved with the order and judgment dated 14.12.2023 passed in Maintenance Case No 71 of 2016 by the learned Principal Judge, Family Court, Darbhanga whereby the learned Principal Judge has allowed the petition filed under Section 125 of the Cr P C by Opposite Party No 2 – wife and directed the petitioner to pay monthly maintenance amount of Rs 15,000/- to his wife as well as her minor son from the date of filing of application, i e, 07.06.2016.

2 Undisputedly, Opposite Party No 2 is the legally wedded wife of the petitioner and out of their wedlock, one male child, namely, Surujesh Kumar Choudhary was born and presently



both Surujesh Kumar Choudhary and Opposite Party No 2 are residing separately with the petitioner.

3 It is submitted by the learned counsel for the petitioner that the petitioner is not challenging the impugned order on merit and confining his argument only on the quantum part of the maintenance amount.

4 He submits that, admittedly, at the time of filing of the application under Section 125 of the Cr P C, the petitioner was getting a monthly salary of Rs 18,245/-, i e, in the year, 2016 and from the order itself, it is clear that at the time of passing of the order, the petitioner was getting a monthly salary of Rs 30,350/- and according to the affidavit submitted by the petitioner, one personal loan has also been taken by the petitioner and his mother is also dependent on him and there are other liabilities of the family upon him but the learned Family Court, while passing the impugned order, did not consider these aspects and directed him to pay monthly maintenance of Rs 15,000/- which is in higher side.

5 He further submits that while passing the impugned order, the learned Family Court also did not consider the fact that at the time of submission of the maintenance application in the year 2016, the petitioner was getting only monthly salary of near about Rs 18,000/- but, without considering this fact, the learned



Family Court has directed the petitioner to pay monthly maintenance of Rs 15,000/- from the date of submission of the application, i e, 07.06.2016 which, according to the counsel, is liable to be set aside.

6 Learned counsel for Opposite Party No 2 – wife opposes the argument raised by the learned counsel for the petitioner. However, he fairly admitted that in the year of 2016, the petitioner was only getting monthly salary near about Rs 18,000/-.

7 I have heard learned counsel for both the parties and perused the records of the Court below.

8 Considering the submission made by both the counsel and further considering the evidence adduced by the parties, it is well established that at the time of submission of application under Section 125 of the Cr P C, the petitioner was actually getting a monthly salary near about Rs 18,000/-. It is also well established that at the time of passing of the impugned order, he was getting a monthly salary of near about Rs 30,000/-. Undisputedly, he has also taken loan for which he is paying regular EMI. Other family members are also dependent on him. Therefore, the amount of maintenance, i e, Rs 15,000/- per month appears to be in higher side. Looking to the income of the petitioner at the time of passing



of the order and further considering his other liabilities, it would be appropriate to direct him to pay a monthly maintenance of Rs 12,000/- instead of Rs 15,000/- from the date of order, i e, 14.12.2023.

9 As discussed above, it is also established that at the time of submission of application under Section 125 of the Cr P C, the petitioner was getting a monthly salary of Rs 18,000/- but the learned Family Court, without considering this fact, ordered him to pay the maintenance amount at the rate of Rs 15,000/- per month from the date of submission of the application which is also in much higher side. Considering the income of the petitioner for the year 2016, he is directed to pay a monthly maintenance of Rs 6,000/- to the opposite party – wife from the date of submission of the application till passing of the final order, i e, 14.12.2023.

10 With the aforesaid observation, this revision petition is partly allowed.

11 Records of the Court below shall be sent back along with the copy of this order to do the needful.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
Transmission Date	29.11.2024

