

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.221 of 2020

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

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DHIRAJ KUMAR Son of Manikram Resident of Village-Mohabbatpurr, P.O-
Panhesa, Police Station-Shekhopursarai, District-Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lalita Devi W/o Dhiraj Kumar, D/o Gopal Prasad Resident of Village-
Jamalpurbigha, P.S.-Sheikhpura, District-Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ganesh Sharma, Adv.
For the Respondent/s : Mr.Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 14-03-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The instant revision is directed against the Judgment
and order of maintenance under Section 125 of the Cr.P.C. which
was registered as Miscellaneous Case No. 27M of 2018, by the
Principal Judge, Family Court, Sheikhpura on 17th December,
2019.

3. It is submitted by the learned Advocate for the
petitioner that marriage between the petitioner and the opposite
party is not in dispute. It is also not in dispute that the opposite



party no. 2, wife has been residing at her paternal home and the petitioner is not paying any maintenance allowance.

4. Learned Advocate for the petitioner submits that the petitioner has no income of his own. He helps his father in his business at Kolkata as a vendor of Panipuri. He earns about Rs. 200/- per day from his business. Therefore, it is not possible for him to pay Rs. 4,000/- per month.

5. It appears from the record that neither of the parties have produced any document in support of the income of the petitioner. In absence of any document and on the plea that the petitioner has been working as a daily labourer, the Hon'ble Supreme Court in *Anju Garg Vrs. Deepak Kumar Garg, reported in AIR online 2022 SC 306* held that for a person, whose income is not produced in record and he claims to be unemployed, his monthly salary is to be considered notionally on the basis of the Minimum Wages Act.

6. In the State of Bihar, a person gets Rs. 4,00/- as minimum wages per day. Therefore, the income of the petitioner is notionally considered as Rs. 12,000/- per month. Finding of this court is also supported by a finding of the Coordinate Bench of the Allahabad High Court in the case of *Kamal Vrs. State of U.P. Through Secy. Home, Lko And Another (2024:AHC-LKO:7461)*.



7. For the reasons stated above, I can safely rely that the income of the petitioner is Rs. 12,000/- per month as a daily wage labourer.

8. The petitioner is under obligation to pay 1/3 of the income to his wife as her maintenance. The 1/3 of the income comes to Rs. 4,000/-.

9. Therefore, the trial court rightly granted Rs. 4,000/- per months to the opposite party no. 2 towards maintenance allowance.

10. Thus, I do not find any illegality or material irregularity in the impugned order and accordingly, the instant revision is dismissed.

(Bibek Chaudhuri, J)

pravinkumar/-

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