

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.229 of 2024

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

Md. Meraj Shaikh @ Md. Meraj @ Md. Meraz Son of Md. Motiur Rahman
Resident of Village- Muslim Nagar Jaley, P.S.- Jaley, District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nemattu Nishan @ Nemattun Nishan Wife of Md. Meraj Shaikh @ Md. Meraj @ Md. Meraz D/o Md. Juhi At present residing at Village- Nazra, P.S. Benipatti, District- Madhubani
3. Abbu Hozefa Son of Md. Meraj Shaikh @ Md. Meraj @ Md. Meraz Living under guardianship of their mother namely Nemattun Nishan, D/o Md. Juhi, Resident of Village- Nazra, P.S. Benipatti, District- Madhubani
4. Abuzar Aayan Son of Md. Meraj Shaikh @ Md. Meraj @ Md. Meraz Living under guardianship of their mother namely Nemattun Nishan, D/o Md. Juhi, Resident of Village- Nazra, P.S. Benipatti, District- Madhubani
5. Abbu Asad Son of Md. Meraj Shaikh @ Md. Meraj @ Md. Meraz Living under guardianship of their mother namely Nemattun Nishan, D/o Md. Juhi, Resident of Village- Nazra, P.S. Benipatti, District- Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subhash Kumar Jha
For the Respondent/s	:	Mr. Nirmal Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 01-10-2024

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. This revision petition has been preferred by the



petitioner-husband being aggrieved with the judgment dated 19.01.2024 passed by the Principal Judge, Family Court, Madhepura in Maintenance Case No. 84 of 2018, whereby and whereunder the learned Family Court allowed the application filed under Section 125 of Cr. P.C. by Opposite Parties/wife and directed the petitioner to pay monthly maintenance amount of Rs. 11,000/- to the Opposite Party-wife from the date of filing of the maintenance case.

3. Learned counsel for the petitioner submits that he does not want to argue the matter on merit and confine his argument only on the quantum part of the maintenance amount.

4. It is submitted by him that petitioner is a labourer and working in Mumbai. According to the learned counsel, without assessing the income of the petitioner, the learned Family Court passed the order of maintenance of Rs. 11,000/- in favour of the opposite party/wife, which is in higher side. He further submits that apart from that, the Family Court without being any prayer made by the opposite party/wife passed the order that there shall be 5 percent increase in the maintenance to the opposite party after every two years, which is not permissible. The opposite party/wife has a remedy available under Section 127 of Cr. P.C. to file an application for



enhancement of the maintenance amount, if she has any ground available.

5. Heard learned counsel for the petitioner as well as perused the impugned order and other materials available on record.

6. As admitted by the petitioner himself that the petitioner is a labourer and working at Mumbai. On being inquired by this Court, learned counsel for the petitioner informed that petitioner is a skilled labour and doing the work at Mumbai.

7. Considering the above, I am of the considered view that the learned Family Court has rightly passed the order of maintenance amount of Rs. 11,000/- which appears to be just and proper. I do not find any infirmity or illegality in this part of the impugned order. Thus, this part of the impugned order is affirmed.

8. With regard to the second part of the impugned order is concerned regarding enhancement of 5 percent of maintenance amount after every two years is concerned, perusal of the order clearly shows that in this regard, there is no prayer made by the opposite parties/wife. There is provision under Section 127 of Cr. P.C. by invoking the same, the opposite party



wife is able to enhance the maintenance amount. Therefore, the latter part of the impugned order as mentioned hereinabove is set aside.

9. Resultantly, this revision petition is party allowed, as indicated above.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	08.10.2024
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