

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.278 of 2022

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

Nishant Kumar Srivastava, Son of Late Anil Kumar Srivastava Resident of Village - Belwatika, Gurudwara Road , Ward No.15, Daltonganj, P.s.- Daltonganj in the distt. of Palamu (Jharkhand).

... .. Petitioner/s

Versus

1. Swati Kumari @ Rinki W/o Nishant Kumar Srivastava , D/o Ajay Kumar Sinha Resident of Village - Naviganj Near Bapu Kanya Madhya Vidyalaya, Bhagwan Bazar, P.s.- Bhagwan Bazar in the Distt of Saran at Chapra.
2. Anmol Srivastava Son of Nishant Kumar Srivastava (Minor) Resident of Village - Naviganj Near Bapu Kanya Madhya Vidyalaya, Bhagwan Bazar, P.s.- Bhagwan Bazar in the Distt of Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the Respondent/s	:	Mr. Dineshwar Mishra, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 02-04-2024 An order of interim maintenance passed in Maintenance Case No. 261 of 2018, vide order dated 1st November 2021, by the learned Principal Judge, Family Court, Saran, is under challenge in the instant revision.

2. It is submitted by the learned Advocate for the petitioner/husband that the trial court passed an order of interim maintenance without complying with the guidelines and taking recourse to the manner and mode of ascertainment of the income and liabilities of the parties as laid down in the case of ***Rajnish v. Neha***, reported in ***(2021) 2 SCC 324***. It is also submitted by the learned Advocate for the petitioner that the said guideline passed by the Apex Court has further being



reiterated in Criminal Appeal No. 3446 of 2023 (Aditi @ Mithi Vs. Jitesh Sharma), decided on 6th November 2023. Learned Advocate for the petitioner submits that imposition of an interim maintenance, at the rate of Rs. 20,000 per month, was made grossly in violation of the directions of the Hon'ble Supreme Court and accordingly, the impugned order is liable to be set aside.

3. Learned Advocate, appearing on behalf of the opposite parties, has filed a counter affidavit. In his counter affidavit, he has annexed the application under Section 125 of the CrPC filed by the opposite party no. 01 for herself and for her minor son. The learned Advocate for the opposite parties urges that the application under Section 125 of the CrPC, is itself supported by an affidavit. Therefore, the petitioner/opposite party no. 01 herein, need not file any affidavits of assets and liabilities in compliance of the guideline of the Apex Court of India passed in the case of ***Rajnesh v. Neha*** (*supra*).

4. The learned Advocate for the opposite parties further, submits that the petitioner is a Class I Officer of the State Bank of India. He earns approximately Rs. 1,00,000/- per month and, therefore, the amount of Rs. 20,000/- as an interim maintenance was just, proper and there is no reason for



interference.

5. In reply, it is submitted by the learned Advocate for the petitioner that the petitioner is a Manager of the State Bank of India.

6. It is contended on behalf of the opposite parties that in spite of the order being passed by the learned Family Court, the petitioner failed and neglected to comply the order and the learned Judge was constrained to issue distress warrant against the petitioner.

7. Having heard the learned counsels for the parties and on careful examination of the entire materials on records as well as the judgments passed by the Hon'ble Supreme Court, this Court is of the view that the guideline of the Hon'ble Supreme Court, laid down in the case of ***Rajnish v. Neha*** (*supra*), was to facilitate the trial court to come to a correct decision about the income and liabilities of the parties. It is directed that on the basis of such assets and liabilities, the court shall determine interim or final maintenance allowance. Therefore, the guideline in the case of ***Rajnish v. Neha*** (*supra*) is to be treated as the law of the land and nobody is bound to escape from filing such affidavits of assets and liabilities. The trial court did not pass the impugned order on the basis of



affidavits of assets and liabilities and therefore, the impugned order is liable to be quashed and set aside.

8. Accordingly, the impugned order dated 1st November 2021 in Maintenance Case No. 261 of 2018 is set aside. Both the parties are directed to file affidavits of assets and liabilities within three weeks from the date of this order in the court of the learned Principal Judge, Family Court at Saran and the learned Judge shall fix interim maintenance on the basis of the affidavits of assets and liabilities filed by the the parties within three weeks from the date of filing of such affidavits of assets and liabilities.

9. With the above direction the instant writ petition is disposed of.

10. In the meantime, the petitioner is directed to pay/deposit in the name of the opposite party a sum of Rs. 10,000/- per month within 10th of each succeeding month without prejudice to the rights and contentions of the parties that might raise at the time of hearing of the application for interim maintenance in the trial court.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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