

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.328 of 2022**

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

MD JAFIR ALAM @ JUMMAN S/o Shekh Monaf Resident of Village- Gaad Bahuari, P.S.- Palanwa, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Husne Ara Khatoon W/o Md. Jafir Alam @ Jumman and D/o Shekh Ebrahim presently residing at Village- Piparpati, P.S.- Ramgarhwa, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Md. Amir Akhtar, Adv., Md. Mahtab Alam, Adv.
For O.P. No. 1	:	Mr. Vijay Shankar Srivastav, Adv., Ms. Nisha Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 20-04-2024

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

2. The instant revision is directed against an order dated 11th March, 2022, passed by the learned Principal Judge, Family Court, East Champaran at Motihari in Maintenance Case No. 46 of 2020, directing the petitioner to pay maintenance allowance @ Rs. 6,000/- per month to the opposite party/wife and Rs. 2,000/- per month for the minor children of the parties.



3. It is submitted by the learned Advocate for the petitioner that the petitioner admits the factum of marriage and birth of two children in the wedlock between him and the opposite party. However, there is a dispute relating to quantum of maintenance. The petitioner was out of India and working in Saudi Arabia during the period between 2010-2015. He returned to India in the year 2015 and he has been working in India. It is also stated on behalf of the petitioner that the petitioner has no such source of income to pay Rs.10,000/- per month to the opposite party. It is also submitted by the learned Advocate for the petitioner that the petitioner duly complied with the order passed by a Coordinate Bench on 1st September, 2022, while admitting the instant revision directing the petitioner to pay maintenance allowance @ Rs. 6,000/- per month. He has also paid arrears maintenance to the opposite party. It is also submitted on behalf of the petitioner that at present the petitioner is in Nepal and he could not pay maintenance allowance as directed by this Court for last two months. He undertakes to pay the same as soon as he returned to India.

4. On perusal of the impugned order, I find that the trial court passed the order of maintenance on the basis of the submission regarding income made by the opposite party. Though,



the petitioner disputed his income. The trial court did not take any recourse of the guideline made by the Hon’ble Supreme Court in *Rajnesh Vrs. Neha*, reported in **2021 (2) SCC 324**.

5. Therefore, the instant revision is disposed of directing the learned Principal Judge, Family Court, East Champaran at Motihari to assess the quantum of maintenance on the basis of affidavits of assets and liability to be filed by both the parties within two months from the date of communication of this order.

6. In view of the above direction, the impugned order is set aside.

7. However, the petitioner is directed to go on paying the maintenance allowance to the opposite party at the same rate, as per the order dated 1st September, 2022, till the disposal of the Maintenance Case No. 46 of 2020.

8. Accordingly, the instant revision is disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

