

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.336 of 2022

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

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Sonu Kumar Singh Son Of Bhagya Narayan Singh R/O Village- Jaradaha,
P.S.- Patahi, District- East Champaran

... .. Petitioner/s

Versus

Menka Devi Wife of Sonu Kumar Singh, D/O- Late Ramchandra Singh At
Present R/O Village- Barwa, P.S.- Lakhaura, District- East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar No.1, Advocate
For the Respondent/s : Mr. Abhishek Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 20-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The instant revision is directed against an ex-parte order passed in Maintenance Case No.497 of 2019 on 20.01.2022 by the learned Principal Judge, Family Court, East Champaran at Motihari whereby and whereunder the learned Principal Judge directed the petitioner who was the opposite party in the Trial Court to pay maintenance allowance at the rate of Rs.6,000/- per month to his wife/opposite party herein within 15th of each succeeding month. The Trial Court also passed an order directing the petitioner to pay a sum of Rs.5000/- towards one time litigation cost.

3. The learned advocate for the petitioner submits that



the petitioner is a B.P.L. Job Card Holder. He works as a day labourer, therefore, he does not have the financial capacity to pay Rs.6,000/- per month to the opposite party. It is also submitted by the learned Advocate for the petitioner that the petitioner has not fixed income.

4. Learned advocate for the opposite party towards my attention to order dated 23.08.2022 passed by a coordinate Bench directing the petitioner to go on paying a sum of Rs.4,000/- per month to the opposite party within first 15 days of every month till the disposal of the instant revision.

5. It is not in dispute that the petitioner has been working on all days of a month and a year. When there is no document produced by either of the parties regarding income, it is decided by the Hon'ble Supreme Court in the case of *Anju Garg & Anr. Vs. Deepak Kumar Garg* reported in *SCC Online (2022) SC 1314* that the income of the husband shall be determined on the basis of Minimum Wages Act. The same view was taken by the Allahabad High Court in an unreported decision dated 25.01.2024 in *Kamal Vs. State of U.P. (Cr. Revision No. 461 of 2023)*.

6. Considering the ratio of the above mentioned two judgment, this Court can safely hold petitioner notional income



to Rs.12,000/- per month.

7. Considering the fact that daily wage under Minimum Wages Act in the State of Bihar is Rs.400/-.

8. The opposite party is entitled to get 1/3rd of the monthly income of the petitioner towards her maintenance. Therefore, the opposite party is entitled to get maintenance at the rate of Rs.4,000/- per month.

9. The quantum of maintenance granted by the Trial Court in Maintenance Case No. 497 of 2019 is accordingly, modified.

10. The petitioner is directed to pay Rs.4,000/- per month within 15th of each succeeding month to the opposite party from the date of this order.

11. All other conditions passed in the impugned order shall remain enforced.

12. Let a copy of this order be sent to the Trial Court for information and necessary action, if any.

13. With the above order, the instant revision is accordingly, disposed of.

(Bibek Chaudhuri, J)

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