

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.534 of 2019

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

MD. ZAHIR RAIN Son of Late Abdul Rahman Resident of Village -
Ijarahiya, P.S.- Riga, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kalima Khatoon Wife of Md. Jahir Rain, D/o - Late Md. Muslim Rain
Resident of Village - Mehsaul, Rain Mohalla, P.S. and District- Sitamarhi
3. Md. Shahid Son of Md. Jahir Rain Residing under guardianshi of his mother,
Resident of Village - Mehsaul, Rain Mohalla, P.S. and District- Sitamarhi
4. Md. Shahil Son of Md. Jahir Rain Residing under guardianship of his
mother, Resident of Village - Mehsaul, Rain Mohalla, P.S. and District-
Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate

For the Respondent/s : Mr. Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 29-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. An order passed in Maintenance Case No. 95 of
2014 on 28.02.2019 passed by the learned Principal Judge,
Family Court, Sitamarhi is under challenge only on the ground
that the opposite party no.2 as petitioner in the Trial Court
clearly stated on oath that she is a vegetable vendor and she will
maintain herself by selling vegetables. She herself did not claim
any maintenance from her husband, inspite of that the learned
Trial Judge granted maintenance allowance at the rate of
Rs.1,000/- in favour of the opposite party no.2/wife. He also
granted maintenance allowance at the rate of Rs.2,000/- per



month for the two children of the parties.

3. When the opposite party no.2 herself does not pray for any maintenance for herself, how the trial court had come to the decision that the opposite party no.2 needs maintenance allowance, cannot be ascertained by this Court. Therefore, the order regarding maintenance in favour of the opposite party no.2 is liable to be set aside.

4. At the same time, the petitioner is under obligation to maintain his two minor children. The opposite party no.2 states that she will maintain her children but as a father, the petitioner is under legal and moral obligation to maintain his children. Since it is the duty of the both parties to maintain their children and the opposite party no.2 does not want to relieve herself of her responsibility to maintain her children, the petitioner is directed to pay Rs.1500/- per month each for two children as maintenance. Thus, petitioner is directed to pay maintenance at the rate of Rs.3,000/- to the opposite party no.2 for the maintenance of the children of the parties from the date of filing of the application under Section 125 of the Cr.P.C.

5. The order of maintenance is modified and accordingly, the instant revision is thus, disposed of.

(Bibek Chaudhuri, J)

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