

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.345 of 2022

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

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Shambhu Chaudhary, S/o Sonelal Chaudhary, Resident of village- Araniya near Araniya Petrol Pump, P.O.- Araniya, P.S.- Jandaha, District- Vaishali, Bihar- 844505

... .. Petitioner

Versus

Veena Devi, Wife of Shambhu Chaudhary, Daughter of Ram Shanker Chaudhary, Resident of Village- Araniya, P.S.- Jandaha, District- Vaishali, Bihar. Presently residing at Resident of Village- Chakhirdi, P.S.- Mahnar, District- Vaishali, Bihar.

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. Uma Shankar Singh, Advocate Mr. Dilip Kumar Roy, Advocate
For the Opposite Party	:	Mr. Rajesh Ranjan, Advocate Mr. Pandey Sanjay Sahay, Advocate
For the State	:	Mr. Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
CAV JUDGMENT

Date : 30-01-2024

Heard learned counsel for the petitioner and learned counsel for the opposite party.

2. This revision application has been filed for setting aside the judgment dated 25.04.2022 passed by learned Principal Judge, Family Court, Vaishali at Hajipur in Maintenance Case No. 217 of 2014 whereby and whereunder the learned Principal Judge, Family Court has allowed Rs.10,000/- per month as maintenance to the opposite party-wife and her minor children by the tenth day of every month from the date of filing of the maintenance application. The learned Family Court further directed the

husband-petitioner to pay the arrears within three months of the passing of the order.

Brief Facts of the Case

3. The petitioner and the opposite party in the present case are the husband and wife respectively. They were married on 25.05.1997 in accordance with Hindu Rites and Customs. The couple was blessed with four children. It is alleged by the wife-opposite party that her husband and his family started demanding Rs.3,00,000/- in dowry. Due to non-fulfillment of the demand, the wife was allegedly physically and mentally tortured. There was also a *panchayati* by local person but the opposite party did not satisfy to them. It is the case of the opposite party that she was ousted from her matrimonial house in the year 2014. She has no source of income whereas her husband earns Rs.50,000/- per month. He also owns 5-7 *bighas* of land but he refused to maintain his wife and the four minor children. The opposite party filed an application under Section 125 of the Code of Criminal Procedure (in short 'Cr.P.C.') and prayed for a sum of Rs.25,000/- as monthly maintenance amount for herself and four minor children.

Stand of the Opposite Party-Husband

4. The husband-petitioner appeared and filed his written statement. In his written statement, he contended that it was his

wife-opposite party who was neglecting her matrimonial obligations and had deserted him. He further stated that because of the mental harassment meted out to him by the opposite party, he had become unwell and is not able to maintain himself properly. He further expressed his readiness to keep his wife and children with all love and dignity. He submitted that he was doing tailoring work and earns Rs.50,000/ to Rs.60,000/- per year.

Evidences Adduced by the Parties

5. In support of her case, the applicant-wife examined herself as AW-1. She stated in her examination-in-chief that she was married about 24-25 years back with Shambhu Chaudhary. She stayed in her *sasural* for seven years and thereafter she was ousted from her matrimonial house. She had four children from Shambhu Chaudhary. Shambhu Chaudhary was not maintaining her and the four children. She stated that Shambhu Chaudhary has got monthly income of Rs.50,000/-. He also owns 5-7 *bighas* of land. She has reiterated her allegation that she was being tortured and beaten by her husband. In her cross-examination, she expressed her desire to live with him if he would be willing to do so. She also stated that her husband has a house.

6. The husband-petitioner deposed in the Family Court. He admitted his marriage with opposite party and further admitted

about the birth of four children from the said wedlock. He stated in his examination-in-chief that the father of Veena Devi is a retired Headmaster who is presently *Mukhiya* of the Village. Veena Devi runs a ration shop and she is running a tea-breakfast shop with the help of her children and in this manner, she is having an income of Rs.50,000/- per month. He tried to persuade his wife to come back but she refused to come. He further made a statement that he was working in a cloth shop at Samastipur and earns Rs.5,000/- per month. He also made statement that he was living in a rented house and he has only 15 *dhurs* of land in his share. In his cross-examination, he made statement that he was living alone and had not married to any another lady. He further stated that his eldest daughter is studying in Inter Class and the youngest son is studying in Matric. The other two children were studying in Class VI and III respectively and because his wife and children are not willing to live with him, he is not giving them any money. He claimed that his wife is deaf and dumb from her childhood. He denied the suggestion of the learned counsel for the opposite party that he had solemnized a second marriage and has got a child out of the same. He denied the suggestion that he had his another house at Samastipur and earns income from the same.

7. The daughter of AW-1 and OPW-2 deposed as AW-3.

She is aged about nineteen years on the date of deposition and has supported the case of her mother. She has stated that her father (OPW-2) is an Agent of LIC and G.P.F.T. He has got a house also which is on rent. She denied the suggestion of learned counsel for the husband-petitioner that her father has no house at Samastipur and he does not work as an LIC agent. She reiterated in course of cross-examination that her father had performed a second marriage and this came to their knowledge in the year 2014. Her maternal grandfather is a retired Headmaster.

8. On behalf of the applicant-wife, her father deposed as AW-2. He deposed that her daughter was not deaf and dumb but because of the assault/beatings given by her husband, she had become deaf and has lost her eye-sight. He reiterated that OPW-2 is working as an Insurance Agent and has built a house in Musarigarari at Samastipur from which he has rent income of about Rs.5000-7000/- per month.

9. On behalf of the husband-petitioner, one witness, namely, Ram Swaroop Ram deposed as OPW-1. As regards the income of Shambhu Chaudhary, this witness has stated in his examination-in-chief on oath that the petitioner earns in between Rs.20,-22,000/- per month. In his cross-examination, he has stated

that he had not seen the deaf and dumb (opposite party) running any tea shop at Jandaha Road. This witness has further admitted in his cross-examination that the petitioner has built double-storeyed building in Musarigarari at Samastipur and resides there but he had not seen the house. He had no knowledge that the petitioner earns Rs.5,000/- per month. The other witnesses adduced on behalf of the opposite party-husband remained almost on the same line.

Findings of the Learned Family Court

10. The learned Principal Judge, Family Court has examined the evidences on the record and discussed the same in the impugned order. The learned Family Court has found that the marriage between the parties is admitted. The birth of four children and their dependence on the husband is also admitted. As regards the case of the husband that his wife is running a tea shop, the learned court has recorded that the evidence on this point is self-contradictory and in his reply, the husband had not stated even a single word regarding running of a tea shop by his wife. The OPW-1 has stated in his evidence that the husband earns Rs.20-22,000/- per month. The husband had come out with a stand that he is living in a rented house but has not examined his landlord and at the same time, he could not substantiate his case that he is

working in a garment shop. Neither the owner of the garment shop nor the owner of the house was brought in dock for testimony.

11. The learned Family Court has further found that the opposite party-wife had been thrown out from her matrimonial house along with her four children. The applicant's witness who is one of the daughters has also supported the case of the applicant-wife. The learned Family Court found that though no documentary evidence has been brought regarding the earning of the O.P.-husband and the O.P.-husband claimed to be working in a garment shop and earning Rs.5,000/- per month only but in his written statement, he had not stated anything about the aforesaid work. None of his relatives were examined who could have made more reliable statements regarding his income.

12. The learned court observed that since OPW-1 had stated in his examination-in-chief that the husband earns Rs.20-22,000/- per month, considering the entire materials on the record and the fact that the husband is not an illiterate person and he had been working as an Agent of G.P.F.T., he was not giving correct information regarding his income and has dragged the case from the year 2014 to 2022, ultimately awarded a sum of Rs.10,000/- per month as maintenance to the wife and her minor children from the date of filing of the application.

Developments During Pendency of the Revision

Application

13. It would appear from the various orders passed by this Court in the present proceeding that in this Court, the petitioner tried to delay the hearing of the case. The revision application remained defective initially but after this Court granted time to remove the defects, those defects were removed. On 23.08.2022, this Court directed learned counsel for the petitioner to seek instruction as to how much he is willing to pay to his wife and his minor children. The petitioner was called upon to place on record his affidavits showing details of his operational bank accounts, income from Insurance Agency and the details of the immovable properties, if any.

14. When the order dated 23.08.2022 was not complied with, once again on 13.09.2022 by way of last indulgence, this Court granted time to the petitioner to file affidavit and issued notice to the sole opposite party-wife. It is worth mentioning here that this revision application has been filed only by making the wife as opposite party. The maintenance has been awarded to the wife and four children but those four children have not been made party even as one of them i.e. the eldest daughter had attained

majority at the time of deposition in the learned Family Court, even she has not been impleaded as party.

15. From the order dated 12.10.2023, it would appear that this Court called upon the petitioner to appear in person with an affidavit showing his bank accounts and description of the movable and immovable properties which may be standing in his name or in the name of his so-called second wife. This Court noticed that the petitioner had not paid a single farthing to his wife and his minor children and at the same time, the petitioner was not complying with the order of this Court, despite adjournments granted to the petitioner on earlier occasions, this Court imposed a cost of Rs.25,000/- upon the petitioner and further noticed that the petitioner is operating in two names. This Court was informed that he is known as Shambhu Chaudhary as well as Mohammed Shakeel Haiyul Kayam and he has performed nikah with one Bibi Nazni Parveen. Having noticed this fact, this Court directed the Superintendent of Police, Vaishali to inquire into it and submit a report.

16. In the order dated 31.10.2023, this Court again noticed that the petitioner had not obeyed the order dated 12.10.2023 and he was circumventing the order passed by this Court for last more than one year, therefore, this Court called upon

the petitioner to show cause as to why a proceeding for contempt be not initiated against him. At this stage, learned counsel for the petitioner undertook to comply with the order regarding payment of cost in the account of the opposite party-wife by the next day.

17. Pursuant to the aforesaid order of this Court, the Superintendent of Police, Vaishali and the Officer-Incharge of Jandaha Police Station informed this Court a startling revelation that Shambhu Chaudhary and Mohammed Shakeel Haiyul Kayam are the same and one person. The Officer Incharge had inquired from Nazni Parveen with whom the petitioner is presently living and she had identified the petitioner as Mohammed Shakeel Haiyul Kayam and has admitted that in the property document registered in the year 2016 in her name, her husband's name is mentioned as Mohammed Shakeel Haiyul Kayam who is none else than this petitioner who is claiming in this Court that he is Shambhu Chaudhary.

18. In its order dated 11.12.2023, this Court perused the report of the Superintendent of Police and at this stage, directed him to ensure proper investigation and submission of an appropriate police report in the jurisdictional court. This Court further took note of the request of learned counsel for the petitioner that the petitioner is willing to go for one time settlement. Records were sent to the Mediation Centre attached to this Court for settlement. This Court directed the

petitioner to pay at least Rs.2,00,000/- against the arrears of maintenance and as also to pay Rs.6,000/- per month for the present as current maintenance after the order of this Court.

19. This Court was informed that opposite party-wife and her four children are living in a state of penury whereas the petitioner had been living with another lady by changing his name and village and with regard to the same, an FIR had been lodged against him. It appears that the efforts taken by the Mediator in the Mediation Centre has failed. A failure report has been submitted to this Court which is kept at Flag 'K'.

Submissions on behalf of the Petitioner

20. Mr. Uma Shankar Singh, learned counsel for the petitioner submits that his client has stated on affidavit that he had only one operational bank account and he has never worked as LIC Agent. It is submitted that the petitioner shall be ready to pay Rs.6,000/- per month and for this purpose, he may deposit a lump sum amount in the fixed deposit with a bank which would come to Rs.9,00,000/- approx. from which the opposite party may maintain herself but there would be a condition that the FIR lodged against the petitioner with regard to his living in two different names and marriage with Nazni Parveen be recalled by order of this Court and the petitioner be given time to earn and deposit the amount.

21. This condition for the purpose of payment of maintenance amount to his wife and children is highly deprecable so this Court refused to accept such condition for the petitioner agreeing to pay maintenance to his wife and children.

22. Learned counsel for the petitioner has submitted that the petitioner does not have sufficient income to pay Rs.10,000/- per month and in this regard, the only statement of OPW-1 who came to depose on his behalf has been wrongly relied upon by the learned Family Court.

Submissions on behalf of the Opposite Party-Wife

23. On the other hand, learned counsel for the opposite party has opposed this application. He has submitted before this Court that in the maintenance case, the husband came out with a false narrative by spreading rumour that his wife is deaf and dumb since her birth. It is submitted that the Gram Panchayat Sarpanch has in fact certified that the opposite party does not run any tea shop or is involved in sewing. It is stated that she and her children are fully dependent upon the old-aged retired father of the opposite party who is living on pension.

24. Learned counsel submits that the petitioner cannot challenge the entire impugned order in absence of the children for

whom the maintenance have also been awarded and too they have not been made opposite parties in this case.

25. Learned counsel further submits that on record, there is a document of Aditya Birla Sunlife Insurance Limited from which it would appear that one Ram Shankar Chaudhary of Village-Mahindabara Anchal- Mahna, Vaishali had obtained a life insurance policy through the petitioner whose name has been mentioned as advisor name with Advisor Code i.e. BL3682 and the branch name- Samastipur.

26. Learned counsel submits that the petitioner has his own house and the photographs of the house is available on the record. It is further submitted that the petitioner has already been charge-sheeted under Section 494 of the Indian Penal Code along with other Penal Sections in Jandaha P.S. Case No. 219 of 2015 and the allegation against him of performing second marriage with a Muslim woman has been found true. Learned counsel, therefore, submits that in the given facts and circumstances of this case, the revision application is liable to be dismissed with cost.

27. Learned counsel for the opposite party has relied upon the judgment of the Hon'ble Supreme Court in the case of **Shamima Farooqui versus Shahid Khan** reported in **AIR 2015 SC 2025**. It is submitted that the Hon'ble Supreme Court has

reiterated that it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain his wife due to financial strain as well he is not capable of earning.

Consideration

28. Having heard learned counsel for the parties and on perusal of the records, this Court finds that the relationship between the petitioner and the opposite party as husband and wife respectively is an admitted fact. The birth of four children out of the said wedlock between the parties is another admitted fact. On the date of deposition (22.03.2022), one of the daughters of the petitioner was aged about 19 years. The petitioner himself has deposed as OPW-2 and in his deposition, he has accepted that his elder daughter is in Inter class, the youngest son is in Matric and two other children are in class VI and III respectively but he was not paying a single paisa to his wife and four children because they were not willing to live with the petitioner. In such condition, this Court has no iota of doubt that the petitioner who has already been chargesheeted for bigamy under Section 494 IPC has been neglecting his wife and four children at least from the year 2014. The impugned judgment has been passed awarding maintenance amount of Rs.10,000/- per month for five members of his family which would hardly comes to Rs.2,000/- per member. While

assailing the impugned judgment, the petitioner has not impleaded his four children and, therefore, the impugned judgment as regards them cannot be allowed to be challenged. The challenge would confine to the maintenance awarded to the wife. This being the composite maintenance amount of Rs.10,000/- for five members of the family, this Court understands that all the five members will get equal amount of share in the maintenance.

29. The conduct of the petitioner in the present case has been found very bad. He has not only tried to prolong the hearing of the case but even kept on changing his stand from time to time. The learned Family Judge has recorded that this petitioner was opposite party in the Family Court and was not giving correct information regarding his income. This Court finds that the finding of the learned Principal Judge is correct. The specific case of opposite party-wife that her husband was working as a Life Insurance Policy Agent has been misconstrued by the petitioner by making a stand that he does not work as an Agent of LIC. The materials would show that this petitioner was working as Insurance Advisor in the Aditya Birla Sun Life Insurance Company and he had his Advisor Code bearing No. BL3682. This must be recorded that the fact that he was working as Advisor in

the Aditya Birla Sun Life Insurance Company has not been denied before this Court.

30. Further, this Court finds that there are enough materials to prima-facie show that this petitioner changed his name as Mohammed Shakeel Haiyul Kayam and performed nikah with one Nazni Parveen. This petitioner purchased a plot measuring an area of 4.36 decimals in mauza-Vishambharpur aloth pragna Saresa, Thana-Musarigarari and it shows his stand that he had no income and earns only Rs.5,000-6,000/- per month not only stands falsified on the basis of the evidence of OPW-1 who is his own witness but also from the fact that the petitioner having performed nikah by changing his name and purchased property in the name of Nazni Parveen.

31. This Court finds that in course of his evidence, the petitioner tried to change his case by making statement that his wife was running a tea shop and ration shop but he could not substantiate this statement which was contrary to his pleadings. On perusal of the evidences of the applicant's witnesses itself it would appear that on behalf of the petitioner no suggestion was given to opposite party-wife or his daughter that they were running a ration shop or a tea shop. There is no whisper in course of cross-

examination that opposite party-wife has any income at all from any source.

32. This Court further finds that though the petitioner filed an affidavit in this Court after several adjournments but he did not make correct statement. In his affidavit before this Court he did not disclose about the purchase of land in the name of Nazni Parveen rather he made a statement that he has no second wife and as such, there is no question of any property in the name of his second wife. At this stage, since a police case has been registered and the petitioner has been chargesheeted, this Court is making only a prima-facie observation in this regard based on the materials before this Court with a clear stipulation that this observation will not prejudice the case of the petitioner in course of trial. Prima-facie, this Court finds that there are materials suggesting that the petitioner has been living with his second wife Nazni Parveen who has identified him as Mohammed Shakeel Haiyul Kayam. The petitioner has admitted only to the extent that he has his residential house as a joint family property in the village-Arnia, P.S.-Jandaha, District-Vaishali stands in the name of his grandfather which further shows that the petitioner has got village property also.

33. In the case of **Shamima Farooqui** (supra), the Hon'ble Supreme Court has reviewed the case laws on the subject referring to the judgment in the case of **Shamim Bano versus Asraf Khan** reported in **(2014) 12 SCC 636** which refers a Constitution Bench judgment in the case of **Danial Latifi versus Union of India** reported in **(2001) 7 SCC 740** and **Khatoon Nisa versus State of U.P.** reported in **(2014) 12 SCC 646**, the Hon'ble Supreme Court observed as follows:-

“**13.** The aforesaid principle clearly lays down that even after an application has been filed under the provisions of the Act, the Magistrate under the Act has the power to grant maintenance in favour of a divorced Muslim woman and the parameters and the considerations are the same as stipulated in Section 125 of the Code. We may note that while taking note of the factual score to the effect that the plea of divorce was not accepted by the Magistrate which was upheld by the High Court, the Constitution Bench opined that as the Magistrate could exercise power under Section 125 of the Code for grant of maintenance in favour of a divorced Muslim woman under the Act, the order did not warrant any interference. Thus, the emphasis was laid on the retention of the power by the Magistrate under Section 125 of the Code and the effect of ultimate consequence.”

34. In the case of **Bhuwan Mohan Singh versus Meena and Others** reported in **AIR 2014 SC 2875**, the Hon'ble Supreme Court emphasised on speedy expeditious disposal of the family disputes. It has become necessary to take note of the facts that in this case, the matrimonial case remained pending for over nine years depriving the opposite party no. 2 and her minor children

from getting any financial assistance from the petitioner.
Paragraphs '13' and '14' of the said judgment are being
reproduced hereunder:-

“**13.** The Family Courts have been established for adopting and facilitating the conciliation procedure and to deal with family disputes in a speedy and expeditious manner. A three-Judge Bench in K.A. Abdul Jaleel v. T.A. Shahida¹², while highlighting on the purpose of bringing in the Family Courts Act by the legislature, opined thus:-

“The Family Courts Act was enacted to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.”

14. The purpose of highlighting this aspect is that in the case at hand the proceeding before the Family Court was conducted without being alive to the Objects and Reasons of the Act and the spirit of the provisions under Section 125 of the Code. It is unfortunate that the case continued for nine years before the Family Court. It has come to the notice of the Court that on certain occasions the Family Courts have been granting adjournments in a routine manner as a consequence of which both the parties suffer or, on certain occasions, the wife becomes the worst victim. When such a situation occurs, the purpose of the law gets totally atrophied. The Family Judge is expected to be sensitive to the issues, for he is dealing with extremely delicate and sensitive issues pertaining to the marriage and issues ancillary thereto. When we say this, we do not mean that the Family Courts should show undue haste or impatience, but there is a distinction between impatience and to be wisely anxious and conscious about dealing with a situation. A Family Court Judge should remember that the procrastination is the greatest assassin of the lis before it. It not only gives rise to more family problems but also gradually builds unthinkable and Everestine bitterness. It leads to the cold refrigeration of the hidden feelings, if still left. The

12. (2003) 4 SCC 166 : (AIR 2003 SC 2525).

delineation of the lis by the Family Judge must reveal the awareness and balance. Dilatory tactics by any of the parties has to be sternly dealt with, for the Family Court Judge has to be alive to the fact that the lis before him pertains to emotional fragmentation and delay can feed it to grow. We hope and trust that the Family Court Judges shall remain alert to this and decide the matters as expeditiously as possible keeping in view the Objects and Reasons of the Act and the scheme of various provisions pertaining to grant of maintenance, divorce, custody of child, property disputes, etc.”

[Emphasis supplied]

35. The Hon’ble Supreme Court made the responsibility of the husband clear in the following words:-

“**15.**.... There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right.....”.

36. While determining the quantum of maintenance, the Hon’ble Supreme Court in *Jasbir Kaur Sehgal v. District Judge, Dehradun*, reported in (1997) 7 SCC 7 has observed as under:-

“The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and

statutory but involuntary payments or deductions. The amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate.”

37. In the case of *Chaturbhuj versus Sita Bai* reported in (2008) 2 SCC 316, the Hon’ble Supreme Court observed as under:-

“Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in *Captain Ramesh Chander Kaushal v. Veena Kaushal*¹⁵ falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in *Savitaben Somabhai Bhatiya v. State of Gujarat*¹⁶.”

38. In the case of *Savitaben Somabhai Bhatiya versus State of Gujarat* reported in (2005) 3 SCC 636, the Hon’ble Supreme Court observed in the following words:-

15. (1978) 4 SCC 70 : (AIR 1978 SC 1807)

16. (2005) 3 SCC 636 : (AIR 2005 SC 1809)

“9. The provision is enacted for social justice and specially to protect women and children as also old and infirm poor parents and falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. The provision gives effect to the natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves...”.

39. Again, the Hon’ble Supreme Court profitably quoted a passage from the judgment rendered by the High Court of Delhi in the case of **Chander Prakash Bodhraj versus Shila Rani Chander Prakash** reported in **AIR 1968 Delhi 174** in the following words:-

“An able-bodied young man has to be presumed to be capable of earning sufficient money so as to be able reasonably to maintain his wife and child and he cannot be heard to say that he is not in a position to earn enough to be able to maintain them according to the family standard. It is for such able-bodied person to show to the Court cogent grounds for holding that he is unable to reasons beyond his control, to earn enough to discharge his legal obligation of maintaining his wife and child. When the husband does not disclose to the Court the exact amount of his income, the presumption will be easily permissible against him.”

40. Looking into the aforesaid judgments of the Hon’ble Supreme Court and the facts of the present case, this Court is of the considered opinion that learned Principal Judge, Family Court, Vaishali has not committed any error in appreciation of the facts and laws on the subject. The impugned judgment does not suffer from any illegality and infirmity, hence, no interference is required.

41. Learned counsel for the opposite party-wife has prayed for enhancement of quantum of maintenance amount. This Court is of the considered opinion that there is already a provision under the Cr.P.C. for such purpose. The opposite party has not filed any revision against the impugned judgment for enhancement, therefore, in the present proceeding, this Court would not consider the prayer for enhancement but this issue is left open to be considered, if an appropriate application is filed in the court of learned Principal Judge, Family Court, Vaishali.

42. This revision application stands dismissed with a cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) which would be paid to opposite party-wife within four weeks from today.

(Rajeev Ranjan Prasad, J)

lekhi/-

AFR/NAFR	
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