

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.625 of 2019

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

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GOPAL PRASAD KESHARI Son of Sarju Prasad Keshari Resident of
Village- Simari (Dudhi Patti), P.S.- Simari, Dist.- Buxar.

... .. Petitioner/s

Versus

VIJAY LACHHAMI DEVI Wife of gopal Prasad kesari, D/o Mukhlal Prasad
Keshari, Resident of Village- Itarhi, P.S.- Itarhi, Dist.- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rang Nath Choubey, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 3 31-01-2024 1. The instant Revision is directed against an order passed by the learned Principal Judge, Family Court, Buxar, in Maintenance Case No. 14 (M) of 2015 on 14th of February, 2019. By passing the impugned order, the petitioner/husband was directed to pay Rs. 8,000/- per month to the Opposite Party /wife towards maintenance allowance.
2. The petitioner has challenged the quantum of maintenance on the ground that he is an agricultural labourer. He earns Rs. 5,000/- per month by selling corps and vegetables and he does not have any financial capacity to pay maintenance at the rate of Rs. 8,000/- per month to the Opposite Party.
3. The Opposite Party pleaded in her petition under Section 125 Cr.P.C. that the petitioner earns Rs. 20,000/- per



month from his business as vegetable seller. The said fact was denied by the petitioner, though in the pleading the petitioner did not mention his income. Witness No. 4 on behalf of the petitioner stated in the Trial Court on oath that he earns Rs. 5,000/- per month as vegetable vendor.

4. It is needless to say that document relating to income of the Opposite Party is not forthcoming. In a very recent judgement, a coordinate Bench of Allahabad High Court in ***Kamal vs. State of U.P. (Criminal Revision No. 461 of 2023)*** decided on 25.01.2024, held that even if the Opposite Party fails to prove the income of her husband, a notional income of the husband is to be fixed, taking into account the minimum wages of an unskilled labour under the Minimum Wages Act. In the State of Bihar, it is Rs. 400/- per day.

5. Thus, in the absence of any evidence with regard to the income of the parties, this Court can safely hold that the petitioner's earning is Rs. 12,000/- per month.

6. The petitioner is under obligation to pay 1/3 of his income for maintenance of his wife so it comes down to Rs. 4,000/- per month.

7. Thus, the petitioner is directed to pay maintenance allowance at the rate of Rs. 4,000/- per month within 15 of each



succeeding month from the date of filing of the application by the Opposite Party.

8. The quantum of arrears maintenance and manner in which the same is to be paid to the Opposite Party shall be decided by the Trial Court.

9. With above order, the impugned order, dated 14th of February, 2019, passed in Maintenance Case No. 14 (M) of 2015, is modified.

10. The instant Revision is accordingly disposed of.

(Bibek Chaudhuri, J)

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