

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.778 of 2019

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

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Md. Saukat @ Md. Saukat Ansari @ Shaukat Ansari Son of Md. Akbar
Resident of Village - Pachnaur Garawa Tola, P.S.- Belsand, District -
Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Margina Khatoon Wife of Md. Saukat @ Md. Saukat Ansari @ Shaukat Ansari Residing at Village - Siyari, P.S.- Nanpur, District - Sitamarhi
3. Gajala Khatoon Daughter of Md. Saukat @ Md. Saukat Ansari @ Shaukat Ansari Under guardianship of O.P. No. 2, Residing at Village - Siyari, P.S.- Nanpur, District - Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate
For the Respondent/s : Mr. Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 12-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Quantum of maintenance granted in favour of the
opposite party no.2 in Miscellaneous Case No.184 of 2014/C.I.S.
No.416 of 2014 under Section 125 of Cr.P.C. by the learned
Principal Judge, Family Court, Sitamarhi is under challenge in
the instant revision. The Court below directed the petitioner to
pay maintenance to the opposite party no.2 at the rate of
Rs.4,000/- per month and Rs.2,000/- per month to their minor
child, total being Rs.6,000/- per month.

3. It is submitted by the learned advocate for the
petitioner that the Trial Court failed to consider that the petitioner



is a daily wage labourer. It is absolutely false to state by the opposite party no.2 that the petitioner is a Civil Contractor and earns Rs.30,000/- to Rs.40,000/- per month. The petitioner being a labourer does not have regular income, therefore, it is not possible for him to pay Rs.6,000/- per month towards maintenance allowance.

4. Even if the petitioner is a daily wage labourer he is under obligation to maintain his wife and child. If he is a daily wage labourer his minimum income may be ascertain as Rs.12,000/- per month, considering the minimum wage of a daily labourer at the rate of Rs.400/- per day.

5. The petitioner is under obligation to pay 1/3rd of his income for the maintenance of his wife and minor child. Therefore, the impugned order so far as it relates to quantum of maintenance is set aside and quashed. Accordingly, the revision application is allowed.

6. The petitioner is directed to pay Rs.2500/- per month for the maintenance of his wife and Rs.1500/- per month for the maintenance of their minor child, total being Rs.4,000/- per month from the date of the filing of the application.

7. The order of maintenance dated 28.02.2019 is thus modified.

(Bibek Chaudhuri, J)

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