

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.880 of 2019

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

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Sangeeta Devi, wife of Ashok Prasad, Daughter of Late Aklu Ram Resident of Village- Kenar Kala, P.S.- Chenari, District- Rohtas. At present Resident of Village Nad, P.S.- Sheosagar, (Baddi), District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Prasad, Son of Nagina Ram, Resident of Village- Kenar Kala, P.S.- Chenari, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Tiwary, Advocate
For the Respondent/s	:	Mr. Rajendra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 27-02-2024 The instant revision is directed against an order dated 12th March 2019 passed by the learned Principal Judge Family Court, Rohtas at Sasaram in Maintenance Case No. 103 of 2011, whereby and whereunder, the learned Judge dismissed the petition under Section 125 of the CrPC, mainly on the following two grounds. Firstly, the petitioner has been working in a private hostel under the name and style of Maa Mundeshwari Hostel at Varanasi and she earns Rs.10,000/- per month. Secondly, she left her matrimonial home voluntarily without any reason leaving her husband as well as two minor children, one of the said two children, namely, Manish Kumar, deposed in support of the opposite party stating *inter alia* that



his mother used to pick up quarrel with his father and she left her matrimonial home voluntarily. She did not look after the opposite party and his children.

2. The petitioner challenged the said order in the instant revision stating *inter alia* that she does not have any income of her own and secondly, the opposite party has a mobile phone repairing shop. Moreover, he has substantial amount of agricultural land and from his business and agricultural land, he earns Rs. 1,00,0000/- (rupees one lakh only) per month. So, the petitioner prayed for maintenance allowance at the rate of Rs. 15,000/- per month.

3. On perusal of the impugned order, this Court finds that the trial court based its finding on the oral evidence of the opposite party with regard to the avocation of the petitioner. The opposite party failed to produce any document to show that the petitioner earns Rs. 10,000/- per month by working in Maa Mundeshwari Hostel at Varanasi. The address of the said hostel has not been filed. At the same time, the petitioner also failed to produce any chit or paper in respect of the income of the opposite party.

4. In view of such circumstances, this Court disposes of the instant application, directing the trial court to obtain



affidavits of assets and liabilities from both the parties as per the guideline made by the Hon'ble Supreme Court in the case of ***Rajnish v. Neha***, reported in ***(2021) 2 SCC 324***.

5. The party shall file such affidavits of assets within three months from the date of communication of this order. Thereafter, the trial court shall consider as to whether the petitioner is entitled to get any maintenance or not on the basis of such affidavits of assets and liabilities.

6. In view of the above discussion, the order passed in Maintenance Case No. 103 of 2011 on 12.03.2019 by the learned Principal Judge Family Court, Rohtas at Sasaram is quashed and set aside. The trial court is directed to re-hear the matter as per the observation made hereinabove.

7. The instant revision application is accordingly disposed of.

(Bibek Chaudhuri, J)

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