

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.909 of 2019

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

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ASHISH SINGH @ ASHISH KUMAR SINGH Son of Suresh Chandra Singh
Resident of Village - Rampur, Hassanpurwa Ka Tola, P.S.- Hussainganj, Dist.-
Siwan.

... .. Petitioner/s

Versus

SANJU DEVI D/O Birendra Singh, W/O Ashish Singh @ Ashish Kumar
Singh Resident of Village - Ghanadih, P.S.- Daraunda, Dist.- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raghav Prasad
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 16-01-2024 An order of maintenance passed in Maintenance

Case No. 71 of 2012 under Section 125 of the Code of Criminal

Procedure by the learned Principal Judge, Family Court at

Siwan vide order dated 19th June, 2019 is assailed by the

opposite party/husband on the following grounds:-

2. (i) The learned trial court fixed the amount of
maintenance payable to the petitioner without considering the
monthly income of the opposite party.

(ii) Admittedly, in the wedlock between the
petitioner and the opposite party, the latter gave birth to a female
child. The said child is residing with the petitioner and he has
been maintaining her.

(iii) The opposite party as petitioner in the trial



court failed to produce any document with regard to income of the opposite party/husband. On the other hand, the opposite party adduced the evidence of PW-2, under whom, he works as a tractor driver. The said witness stated on oath that he pays Rs. 6,000/- per month to the opposite party as his salary.

(iv) The learned trial Judge failed to consider that with the meager amount of Rs. 6,000/- he maintains himself and his daughter, therefore, he is not in a position to pay Rs. 5,000/- for the maintenance of the petitioner.

3. Having heard the learned Advocate for the petitioner and on perusal of the impugned order, I find that the above points as submitted by the learned Advocate for the petitioner had not been taken into consideration by the learned trial Judge. When the petitioner failed to produce any contrary evidence with regard to the income of the opposite party/husband, the evidence laid on behalf of the opposite party as to his income must be accepted.

4. At the same time, this court is not unmindful to note that the petitioner is under obligation to maintain his wife even if a person does not have any ostensible source of income, he is under obligation to maintain his wife.

5. Considering the income of the petitioner as



found of the evidence of opposite party no.2 and the fact that he maintains his minor daughter, this court is of the view that a direction to pay maintenance at the rate of Rs. 3,000/- will be just and proper order for maintenance to be paid by the present petitioner.

6. Accordingly, the impugned order dated 19th June, 2019 passed in Maintenance Case No. 71 of 2012 is modified directed the the opposite party no.2 to pay maintenance at the rate of Rs. 3,000/- from the date of filing of the application. The instant Revision is thus disposed of.

(Bibek Chaudhuri, J)

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