

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.733 of 2021

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

Rajiv Kumar @ Rajiv Mahto Son of Vido Mahto Resident of Village- Abagil Rampur (Hussaina), P.S.- Medani Chowki, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mamta Devi @ Bhutan Devi D/o Ramautar Mahto, W/o Rajiv Kumar @ Rajib Mahto Present resident of Village- Dighri, O.P. P.S.- Manikpur (Suryagarha), District- Lakhisarai, Permanent resident of Village- Abgil Rampur (Hussaina), P.S.- Medani Chowki, District- Lakhisarai.
3. Rajnish Kumar Mother- Mamta Devi, Son of Rajiv Kumar @ Rajib Mahto Present resident of Village- Dighri, O.P. P.S.- Manikpur (Suryagarha), District- Lakhisarai, Permanent resident of Village- Abgil Rampur (Hussaina), P.S.- Medani Chowki, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suresh Prasad Singh, Advocate Mr. Uttam Kumar, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 19-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The instant revision is directed against an order passed by the learned Principal Judge, Family Court, Lakhisarai in Maintenance Case No.08 of 2014 on 07.07.2018 whereby and whereunder the Trial Court directed the petitioner/husband to pay maintenance at the rate of Rs.5,000/- per month to the wife and Rs.2,000/- per month to the children of the parties, total being Rs.7,000/- per month.



3. It is contended on behalf of the petitioner that the petitioner is a daily wage earner. The opposite party no.2 made out a case that the petitioner has 10 Bigha agriculture land and a Pucca building and he earns Rs.6 to 8 lacs per annum. However, the opposite party no.2 has denied such allegation and states that he earns Rs.5000-6000/- per month by way as daily wage worker.

4. It is found from the impugned order that neither of the parties could produce any document with regard to the property or income of the petitioner. When there is no document produced by either of the parties regarding income, it is decided by the Hon'ble Supreme Court in the case of *Anju Garg & Anr. Vs. Deepak Kumar Garg* reported in *SCC Online (2022) SC 1314* that the income of the husband shall be determined on the basis of Minimum Wages Act. The similar view was taken by the Allahabad High Court in an unreported decision dated 25.01.2024 in *Kamal Vs. State of U.P. (Cr. Revision No. 461 of 2023)*.

5. Considering the ratio of the above mentioned two judgment, this Court can safely hold petitioner notional income to Rs.12,000/- per month.

6. Considering the fact that daily wage under



Minimum Wages Act in the State of Bihar is Rs.400/-.

7. The opposite party no.1 is entitled to get 1/3rd of the monthly income of the petitioner towards her maintenance. Therefore, the opposite party no.1 is entitled to get maintenance at the rate of Rs.4,000/- per month.

8. The quantum of maintenance granted by the Trial Court in Maintenance Case No.08 of 2014 is accordingly, modified.

9. The petitioner is directed to pay Rs.4,000/- per month within 10th of each succeeding month to the opposite party no.1 from the date of this order.

10. Let a copy of this order be sent to the Trial Court for information and necessary action, if any.

11. The instant revision is accordingly, disposed of.

(Bibek Chaudhuri, J)

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