

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1029 of 2019

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

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KUNDAN YADAV Son of Tilo Yadav Resident of Village - Jharkaha, P.S.-
Shankarpur, District - Madhepura.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Mira Devi Wife of Kundan Yadav D/o Bindeshwari Yadav, Resident of
Village - Lalpatti, P.S.- Singheshwar, District - Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pawan Kumar, Adv.

For the Respondent/s : Mr.Tarun Prasad Mandal, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 01-02-2024 Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. An order of maintenance passed by the learned
Principal Judge, Family Court, Madhepura in Misc.
(Maintenance) Case No. 13 of 2016, is under challenge in the
instant revision, mainly on the ground that the
petitioner/husband admittedly is a day labourer and earns Rs.
4,000/- to Rs. 5,000/- per month. Therefore, the petitioner does
not have the financial position to pay Rs. 5,000/- per month to
the opposite party.

3. In the instant case, marriage between the parties has
been admitted. It is also not in dispute that the parties are



residing separately. Even assuming that the petitioner is a labourer having monthly income of Rs. 4,000/- to Rs. 5,000/-, there is no dispute that he is a able bodied man capable to work and earning. When the monthly income of husband cannot be proved by any documentary evidence, the Court can presume, taking into consideration the principle of Minimum Wages Act, that the petitioner ears Rs. 12,000/- per month. The opposite party is entitle to 1/3 of the income of the petitioner.

4. For the reasons stated above, the opposite party is entitled to get maintenance allowance @ Rs. 4,000/- per month. The order of maintenance passed by the trial court on 19th June, 2019 is thus modified directing the petitioner to pay maintenance allowance @ Rs. 4,000/- per month to the opposite party within 10th of each succeeding month from the date of the order passed by the trial court.

5. The instant revision is accordingly disposed of.

(Bibek Chaudhuri, J)

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