

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1228 of 2019

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

MD. ZUNED @ MD.JUNED Son of Late Salahuddin Resident of Village-
Purwari Jhiruwa, P.S.- Simraha, District- Araria.

... .. Petitioner/s

Versus

1. BIBI RIJWANA KHATOON Wife of Md. Zuned Residing at Village-
Purwari Jhiruwa, P.S.- Simraha, District- Araria.
2. Md. Amar Son of Md. Md. Zuned Residing at Village- Purwari Jhiruwa,
P.S.- Simraha, District- Araria.
3. Rafina Son of Md. Zuned Residing at Village- Purwari Jhiruwa, P.S.-
Simraha, District- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Adv.
For the Respondent/s : Mr. Naushad Uzzoha, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 05-02-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The instant revision is directed against an order of
maintenance, passed by the learned Principal Judge, Family Court,
Araria in Maintenance Case No. 4 of 2017 on 30th April, 2019,
directing the petitioner to pay maintenance @ Rs. 3,000/- per
month to his wife, the opposite party no. 2 herein and Rs.1500/-
each to the two children of the parties, total being Rs. 6,000/- per
month.



3. It is submitted by the learned Advocate for the petitioner/husband at the outset that in terms of the order dated 9th January, 2020, the petitioner has been going to pay Rs. 3,000/- per month regularly to the opposite party no. 2.

4. On merit, it is submitted by the learned Advocate for the petitioner that the petitioner and the opposite parties are close relation. However, according to Muhamdan law, since marriage between the close relation is not prohibited by any decree, the said marriage was performed between the petitioner and opposite party no. 1.

5. It is also contended on behalf of the petitioner that opposite party has grab all the properties including the residential house of the petitioner. Therefore, the petitioner does not have even any place to stay. The opposite party during trial of the petition under Section 125 of the Cr.P.C. fails to produce any document to show that the petitioner has landed property.

6. On the other hand, specific case of the petitioner is that he does not have any landed property.

7. Last, but not the least, it is the case of the petitioner that the opposite party herself divorced the petitioner by pronouncement of *talak/khula*. After such *talak/khula*, the petitioner has already paid entire amount of deferred down.



8. Having heard the learned Advocate for the petitioner, this Court is of the view that pronouncement of talak does not entitle the opposite party to have the benefit of Section 125 of the Cr.P.C., if the Court finds that she does not have any means to maintain herself.

9. The petitioner contended that he has been driven away from his home and the opposite party has grab his entire property.

10. The trial Court directed the petitioner to pay a sum of Rs.6,000/- in all for the maintenance of the opposite party and two minor children of the parties.

11. In view of the fact that the parties have not been able to produce any document, wherefrom the income of the petitioner can be asserted, his income should be notionally fixed on the basis of Minimum Wages Act.

12. Taking consideration into said act, the income of the opposite party shall not be more than 12,000/- per month. 1/3 of the said amount comes to Rs. 4,000/- per month.

13. On his analogy, the quantum of maintenance to be paid by the petitioner is modified, directing him to pay Rs. 4,000/- in all for the opposite party and their two children per month.

14. This order shall be affected from the date of passing of the order by the trial court i.e. on 30th April, 2019.



15. On the basis of the above direction, the amount of maintenance to be paid by the petitioner is modified. The instant revision is accordingly disposed of.

16. Parties to act in accordance with the order.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

