

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1304 of 2019

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

Vinod Gupta @ Vinod Kumar Gupta Son of Sri Bhagwan Sah Resident of Village- Nuawan, P.O. Kabilasur (Baligaon), P.S. Durgawati, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sandhya Devi @ Kumari Vidya Gupta Wife of Vinod Gupta @ Vinod Kumar Gupta and Daughter of Madan Sah Resident of Village- Bharendua, Chenari, P.O. and P.S.- Chenari, District- Rohtas at Sasaram.
3. Aditya Kumar Son of Vinod Gupta @ Vinod Kumar Gupta Through his Mother and natural Guardian Sandhya Devi @ Kumari Vidya Gupta, Resident of Village- Bharendua, Chenari, P.O. and P.S.- Chenari, District- Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Singh, Advocate
For the Respondent/s	:	Mrs. Asha Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 28-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The instant revision is directed against an order dated 26.08.2019 passed in Maintenance Case No. 90 of 2017 by the learned Principal Judge, Family Court, Rohtas, Sasaram directing the petitioner to pay maintenance to the opposite party no.2 at the rate of Rs.6,000/- per month and to the two children of the parties Rs.2,000/- each per month, total being Rs.10,000/-.

3. It is not in dispute that the petitioner is the legally



wedded husband of the opposite party no.2. In the wedlock between the petitioner and the opposite party no.2, the opposite party no.2 gave birth to two children. Indisputably, the opposite party no.2 and her children has been residing at her paternal home. It is also not disputed that the petitioner during her separate stay at her paternal home did not pay any farthing towards the maintenance of his wife and children. Under such factual background, the objection of the petitioner is required to be adjudicated upon.

4. It is submitted by the learned advocate for the petitioner that the petitioner has no income of his own. The opposite party no.2 stated that the petitioner is an owner of a shop at Nuaon Bazar within P.S. Durgawati. According to the opposite party, the petitioner earns Rs.40,000/- per month by selling goods from the said shop. It is also stated by the opposite party no.2 that the petitioner earns Rs.50,000/- per month from his agriculture. Thus, it is contended by the opposite party no.2 that the petitioner earns Rs.90,000/- per month.

5. Considering such submission, the Trial Court passed an order directing the petitioner to pay Rs.10,000/- per month.

6. It is submitted on behalf of the petitioner by his



learned advocate that the petitioner has a shop in his village where he resides with his father and three brothers. The said shop is a joint property of all the family members and petitioner does not have any separate income from the said shop. He also denied that he has agricultural income. The Trial Court did not consider the evidence of the husband/petitioner herein. On the basis of the evidence adduced by the opposite party and her witnesses Trial Court held that the petitioner has sufficient means to maintain his wife and children.

7. It is submitted by the learned advocate for the opposite party no.2 that the amount of maintenance is so high that it is not possible for him to carry out the order. On query, it is also submitted by the learned advocate for the petitioner that neither the petitioner nor any of his family members has any trade license in respect of the said shop. The petitioner and his family members run a shop in the village selling certain daily items and goods and it is absolutely absurd to say that he earns Rs.40,000/- per month. The opposite party no.2 has also failed to produce any document in relation to agricultural income of the petitioner.

8. I have duly considered the submission made by the learned advocate for the opposite party no.2, the impugned



judgment as well as the evidence on record, copy of which has been annexed along with the revisional application has been filed.

9. It is ascertain from the argument of the learned advocate for the petitioner that the opposite party no.2 is a graduate and she runs a Kiosk to help the villagers in discharging their banking operations. She herself earns her livelihood.

10. Having heard the learned advocate for the petitioner, this Court is of the view that the petitioner being the husband of the opposite party no.2 is under legal and moral obligation to maintain his wife and children. The Trial Court granted maintenance of Rs.2,000/- per month each for the two children of the petitioner.

11. This Court is of the view that an amount of Rs.2,000/- is on the lowest side to maintain the children by the petitioner. However, this Court does not interfere with the amount of maintenance granted by the Trial Court in favour of the childrens of the petitioner.

12. With regard to the opposite party no.2, this Court is of the view that considering the present day market price and basic need of person as well as the financial condition of the



petitioner. The petitioner be directed to pay maintenance to the opposite party no.2 at the rate of Rs.4,000/- per month.

13. The impugned order dated 26.08.2019 passed in Maintenance Case No. 90 of 2017 by the learned Principal Judge, Family Court, Rohtas, Sasaram is accordingly, modified.

14. The instant revision is thus, disposed of.

(Bibek Chaudhuri, J)

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