

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1332 of 2019

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

AKHILESH CHAUDHARY S/o Late Babu Lal Chaudhary R/o village-
Gobindpur, P.S.- Nalanda, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Riya Devi W/o Akhilesh Chaudhary, D/o Kameshwar Chaudhary Residing of village- Devi Sarai, P.S.- Deep Nagar, District- Nalanda
3. Aditya Raj S/o Akhilesh Chaudhary Residing of village- Devi Sarai, P.S.- Deep Nagar, District- Nalanda
4. Rishu Kumar S/o Akhilesh Chaudhary Residing of village- Devi Sarai, P.S.- Deep Nagar, District- Nalanda

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar No.1, Advocate
For the Respondent/s : Mr. Jai Narain Thakur, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 29-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The instant revision is directed against an order dated 05.09.2019 passed in Maintenance Case No. 65(M) of 2011 by the learned Principal Judge, Family Court, Bihar Sharif, Nalanda whereby and whereunder the learned Principal Judge directed the petitioner to pay maintenance to the opposite party no.2 at the rate of Rs.3,000/- per month and to their two minor children at the rate of Rs.1500/- per month each, total being Rs.6,000/- per month.



3. It is no in dispute that the petitioner is the legally wedded husband of the opposite party no.2. It is also not in dispute that the marriage of the opposite party no.2 was solemnized on 16.02.2003 according to Hindu Rites or Ceremonies. Indisputably, the opposite party no.2 along with her two minor children have been residing at her paternal home. There is no record that during her stay at her paternal home, the petitioner paid even a single farthing for the maintenance of his wife and children. It is stated by the opposite party no.2 in her petition under Section 125 of the Cr.P.C. that the petitioner has been working as a Manager of Bikaner Food Pvt. Ltd. at Faridabad. However, the petitioner in his show cause denied the said fact. It is stated by him that he has been maintaining his livelihood as a daily labourer.

4. It is needless to say that a husband is under legal and moral obligation to maintain his wife and children. Even if he is unemployed, if the husband is found to be able bodied and capable of earning the Court will presume that the husband has capacity to earn and the Court will grant maintenance order in favour of the wife and children.

5. The Trial Court after considering entire evidence on record as well as the respective cases of the parties passed an



order directed the petitioner to pay maintenance at the rate of Rs.3,000/- per month to the opposite party no.2 and Rs.1500/- per month each for two children of the parties.

6. The amount of maintenance is not at all at the higher side. Such amount is absolutely necessary for bare maintenance of the human being and two minor children.

7. For the reasons stated above, I do not find any illegality in the impugned order and accordingly, the instant revision is dismissed and the impugned order is affirmed.

(Bibek Chaudhuri, J)

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