

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1543 of 2019

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

MD. ABDUL KADIR KHAN @ ABDUL KADIR KHAN @ ABDUL KADIR KHA Son of Late Md. Sharif Khan @ Sharif Kha Resident of Village and P.O. Banpur, P.S.- Khaira, Distt- Jamui.

... .. Petitioner/s

Versus

SHAMA PARWEEN W/o Md. Abdul Kadir Khan and D/o Irshad Khan Presently R/o Mohalla- Ahiyapur, P.S.- Khaira, Dist- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amar Prakash
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 08-04-2024 It appears from the impugned order passed in Maintenance Case No. 21M/2018 on 18th October 2019 by the learned Principal Judge, Family Court, Sheikhpura that the petitioner was directed to pay maintenance, in favour of the opposite party at the rate of Rs. 8,000/- per month for herself and Rs. 2,000/- per month for the minor child of the parties, total being Rs. 10,000/-.

2. In paragraph 13 of the judgment, the learned Judge recorded : “ As far the income of the opposite is concerned, there is no documentary proof about the real income of the opposite party, neither the applicant filed any proof to show the income of opposite party nor the opposite party himself produced any document to show his own income, both parties



have only oral evidence in this regard.” Therefore, it is found that the order of maintenance was passed without assessing the income and liability of the petitioner.

3. In view of such circumstances, I am not inclined to remit back the aforesaid revisional application being Maintenance Case No. 21M/2018 with a direction upon both the parties to file affidavits of assets and liabilities, in terms of the guideline made by the Hon’ble Supreme Court in ***Rajnesh v. Neha***, reported in ***(2021) 2 SCC 324***.

4. Such affidavits of assets shall be filed by the parties within one month from the date of communication of the order.

5. The trial court shall decide the amount for maintenance allowance on the basis of the assets and liabilities within three months from the date of communication of the order after service of notice upon the opposite party/petitioner before the trial court.

6. In view of the above order, the impugned order dated 18th October 2019 passed in Maintenance Case No. 21M/2018 is set aside. However, without prejudice to the rights and contentions of the parties, the petitioner is directed to pay a consolidated sum of Rs. 5,000/- per month to the opposite party till the disposal of maintenance case number 21M/2018.



7. It is made clear that I have not considered the merit of the case and the learned Judge of the trial court is at liberty to decide the merit of the case.

8. In view of the above order, the impugned order dated 18th October 2019 is set aside and the instant revision is allowed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U		T	
---	--	---	--

