

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.85 of 2024

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

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Digambar Thakur, Son of Late Jibachh Thakur, Resident of Village-
Maharajpur Dhatta Tole, P.S.-Kahjauli, District-Madhubani.

... .. Petitioner/s

Versus

1. Poonam Thakur, D/O Ramakant Khan, Resident Of Village-Balani Mehath,
P.S.-Bhairab Sthan, District-Madhubani
2. Shivam Kumar Thakur, Son Of Digambar Thakur, Resident Of Village-
Balani Mehath, P.S.-Bhairab Sthan, District-Madhubani
3. The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhishek Anand, Advocate Mrs.Madhuri Kumar, Advocate
For the Respondent/s	:	Mr.Shailendra Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 23-07-2025 Petitioner is the husband of the Opposite Party No. 1
and father of the Opposite Party No. 2.

2. The Opposite Party No. 1 filed an application under
Section 125 of the Cr.P.C., which was registered as M.R. Case
No. 335 of 2013, praying for maintenance for herself and her
minor child from the petitioner. The said maintenance case was
disposed of on the 18th of September, 2023, directing the
petitioner to pay a maintenance allowance at the rate of Rs.
6,000/- per month to the Opposite Party No. 1 and Rs. 4,000/-
per month to the Opposite Party No. 2, total being Rs. 10,000/-
per month within first week of each succeeding month from the



date of filing of the application. It is also directed that the amount of maintenance shall be paid from the date of filing of the application. The petitioner has challenged the impugned order of quantum of maintenance only on the ground that he does not have the financial capacity to pay Rs. 10,000/- per month to the opposite parties.

3. It is contended on behalf of the petitioner that he used to work in a private company under the name and style of Shri Ram Transport Finance Company Ltd. Jhalabar and used to get Rs. 40,000/- per month towards his salary. However, he left the job on 15.2.2013 when the application for maintenance under Section 125 of the Cr.P.C. was filed. He is unemployed at present. He has been working as a daily wage earner and earns Rs. 10,000/- per month. The Trial Court passed an order directing the entire income of the petitioner to be paid to the opposite parties. Therefore, it is submitted by the learned Advocate for the petitioner that there is a score in the instant revision to revise the amount of maintenance granted by the Trial Court in favour of the opposite parties.

4. Learned Advocate on behalf of the opposite parties, on the other hand, has supported the impugned judgement. It is stated by him that the petitioner used to earn Rs. 40,000/- per



month. Therefore, he has the capability to earn adequate money to maintain the opposite parties. He is an able-bodied person. Therefore, he cannot refuse payment of maintenance allowance in favour of the opposite parties.

5. Learned Advocate for the petitioner submits in reply that by a supplementary affidavit, the petitioner has filed affidavits of assets and liabilities in terms of the direction made by the Hon'ble Supreme in *Rajnish vs. Neha*. In affidavits of assets and liabilities, he clearly stated that he earns Rs. 10,000/- per month as daily wage earner. Moreover, the Opposite Party No. 1 earns Rs. 8,000/- per month by sewing work. The said fact has been denied by the Opposite Party No. 1.

6. Having heard the learned counsel for the parties and on careful perusal of the entire materials on record, this Court finds it curious as to why a person would leave the job when he used to earn Rs. 40,000/- for being a daily wage earner, earning Rs. 10,000/- per month. Human conduct and behaviour always show that person is capable of working and runs after earning more. No reasons have been subscribed as to why the petitioner went back to earn $\frac{1}{4}$ of the salary which he is received.

7. Be that as it may, it is not in dispute that the



petitioner is an able-bodied person, and from his work experience, it is ascertained that he would have earned at least Rs. 40,000/- per month. There are plethora of decisions where the Hon’ble Supreme and the Higher Courts held that it is not the actual income of the husband but his capability to earn that is the prime factor on the basis of which the maintenance allowance ought to be determined.

8. Considering such aspect of the matter, I do not find any reason to interfere with the judgement passed by the Trial Court. The present-day market price and the bare minimum needs of a lady and child required a sum of Rs. 10,000/- to maintain themselves in a very humble way. Therefore, the instant revision is dismissed.

(Bibek Chaudhuri, J)

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