

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.168 of 2023

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

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1. Prerna Singh @ Prerna Dwivedi, Wife of Abhyuday Dwivedi Resident of Village (Sasural Address) - Nawada, P.O.- Daudpur (Near Mansurpur), P.S.- Vaishali, District - Vaishali. Presently Residing at Village (Maiké Address) - Gariba, P.O.- Gariba, P.S.- Kalyanpur, District - East Champaran.
 2. Adya, Daughter of Abhyuday Dwivedi Resident of Village (Sasural Address) - Nawada, P.O.- Daudpur (Near Mansurpur), P.S.- Vaishali, District - Vaishali. Presently Residing at Village (Maiké Address) - Gariba, P.O.- Gariba, P.S.- Kalyanpur, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Abhyuday Dwivedi, Son of Sachchidanand Dwivedi Resident of Village - Nawada, P.S.- Vaishali, District - Vaishali. Presently Residing at 46/7, Surendranath Banerjee Road, Taltala Bazar, P.S.- Taltala, Kolkata, West Bengal, Pin - 700014

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate Mr. Abhinav Shandilya, Advocate Mr. Jagjit Roshan, Advocate
For the Respondent/s	:	Mr. Arun Kumar Pandey, Advocate
For the Opposite Party No. 2 :		Mr. Rajesh Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

12 16-01-2025 1. This application is directed against the Order dated 06.07.2022, passed by the learned Principal Judge, Family Court, East Champaran, Motihari under Section 125 Code of Criminal Procedure in Maintenance Case No. 231 of 2020, whereby and whereunder, the learned Court without assessing the actual income of the Opposite Party in a mechanical manner directed the Opposite Party to pay Rs. 12,000/- per month to the Petitioner, namely, Prerna Singh and Rs. 3,000/- to the minor



daughter of the parties as maintenance amount and also directed to pay Rs. 5,000/- as litigation cost to the Petitioner. The Maintenance amount was directed to be paid by 15th day of each succeeding month. The order was made effective from the date of filing of this case along with the arrears of Maintenance amount from 16.12.2020 to 06.07.2022 to be paid by the Opposite Party within six months from today.

2. Earlier the Petitioner preferred a Miscellaneous Appeal bearing M.A. No. 351 of 2022 against the present impugned order but during Stamp Reporting, a defect was pointed out regarding maintainability of the Appeal inter alia "It is brought to kind notice of the Hon'ble Court that present Miscellaneous Appeal has been filed under Section 19 (1) of the Family Court Act against the Order dated 06.07.2022 passed in Maintenance Case No. 231 of 2020 filed under Section 125 Code of Criminal Procedure whereby learned Principal Judge, Family Court, East Champaran, Motihari appears to have allowed the said Maintenance Case. Against such an Order proper remedy seems to lie by way of filing a Criminal Revision Petition under Section 19 (4) of Family Court Act in view of Order dated 24.10.2008 passed in Criminal Revision No. 321 of 2008 by Hon'ble Division Bench reported in PLJR 2008(4) Page



817." Thus, M.A. No. 351 of 2022 was withdrawn with the liberty to approach the Court under appropriate Forum and the said liberty was granted vide Order dated 25.01.2023.

3. The Petitioner filed Maintenance Case No. 231 of 2020, dated 16.12.2020, under Section 125 of the Cr.P.C. stating therein that the marriage between the Parties was solemnized on 29.06.2018 according to Hindu rites and rituals. Thereafter, the Petitioner went to her matrimonial house and started living her matrimonial life. At the occasion of marriage, the Petitioner's father gave ornaments of Rs. 5,00,000/, utensils of Rs. 50,000/- and furniture's of Rs. 75,000/- as Streedhan to the Petitioner. After sometime of marriage, the Opposite Party started torturing the Petitioner, both physically and mentally. There was continuous taunts and abuse for the Petitioner in her matrimonial house. She was deprived of basic amenities by not feeding her on the pretext that the Streedhan brought by the petitioner was of inferior quality and was substandard articles. Out of the said wedlock, on 05.05.2019, the Petitioner was blessed with one female child, after which the opposite party again started traumatising the Petitioner and started demanding Scorpio Vehicle and flat from Petitioner as dowry. The Petitioner denied the demands which resulted into traumatising



experience for both the Petitioner and her daughter. On 10.10.2019, the Opposite Party and his family members after torturing the Petitioner ousted her from her matrimonial home along with her minor daughter after snatching her Streedhan. Further, in October, 2019 to March, 2020, the family members of the Petitioner tried to pacify the matter, but the Opposite Party and his family members were adamant on their dowry demand. On 26.11.2020, the Petitioner along with her witnesses went to Kolkata where the Opposite Party works and tried to pacify the matter from where she was called at Islampur and on 27.11.2020, the Opposite Party and his family members misbehaved with the Petitioner and her witnesses and they ousted then from there.

4. The Petitioner puts forth the detail of the Opposite Party wherein he is a Government Employee and works at Accounts Department of Islampur Nagar Nigam, West Bengal, from which he earns Rs.60,000/- per Month and he holds Flats, House and land at Kolkata and also holds agricultural land at Vaishali, Bihar and from all these sources he earns Rs. 12,50,000/- per annum. The Petitioner along with her minor daughter is passing her life in a wretched condition at her Maik and has no source of income to maintain the livelihood. And



hence prays for Rs. 50,000 per month for her maintenance as well as for the minor daughter. The Petitioner emphasis on Learned Court below passed the final order without appreciating the real facts and statements and prays to set aside the Order dated 06.07.2022 passed in Maintenance Case No. 231 of 2020 passed by Learned Principal Judge, Family Court, East Champaran Motihari and prayed to enhance the Maintenance.

5. In the case of ***Rajnesh v. Neha***, reported in **(2021) 2 SCC 324**, the Court held that the living expenses of the child would include expenses for food, clothing, residence, medical expenses, education of children. Extra coaching classes or any other vocational training courses to complement the basic education must be factored in, while awarding child support. Education expenses of the children must be normally borne by the father. If the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties.

6. In the case at hand, the Petitioner has a minor child who also needs to be maintained in this fast pace society, for which the enhancement of maintenance seems necessary to provide a better life to the child.

7. In the case of ***Reema Salkan v. Sumer Singh Salkan***, reported in **(2019) 12 SCC 303**, the Supreme Court



enhanced the maintenance amount keeping in mind the spiralling inflation rate and high cost of living index today, to do complete justice between the parties.

8. For the reasons stated above, this Criminal Revision stands disposed of with a direction to the Respondent to pay the enhanced maintenance amount of Rs. 15000/- to the Petitioner and Rs. 5000/- for their daughter because wife and child are entitled in law to lead life in similar manner as they would have lived in house of husband/ father.

(Bibek Chaudhuri, J)

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