

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.134 of 2024**

Arising Out of PS. Case No.-104 Year-2019 Thana- COMPLAINT CASE District- Araria

Md. Afroz @ Afroz Alam @ Afroz @ Mohammad Afroz, son of Abdus Subhan village- Jhirwa Jhirwa Purwari W.No-3, Ps Po- Simraha Dist- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Musarat Jahan @ Musarrat Khatoon, D/o- Md. Shoib alam @ Md. Soyeb Alam, W/o- Afroz @ Afroz alam R/o- Jhirwa Jhirwa Purwari W.No-3, Ps- Simraha Dist- Araria

... .. Respondent/s

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr.Md. Naushad Uzzoha, Advocate |
| For the Respondent/s | : | Mr.Jitendra Kumar Singh, APP    |
| For the O.P. No. 2   | : | Mr.Madhav Jha, Advocate         |
|                      |   | Mrs.Kanchan Jha, Advocate       |
|                      |   | Mr.Nishant Choudhhary, Advocate |

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

- 3      08-01-2025                      1. The petitioner is the husband of the Opposite Party
- No. 2. Marriage of the parties were solemnized according to the Modamdan Rites and Customs on 20<sup>th</sup> of February, 2004. It is not in dispute that in the wedlock between the petitioner and Opposite Party No. 2, they have two minor children who reside with the petitioner.
2. The Opposite Party No. 2 filed an application claiming maintenance from the petitioner before the Court of the learned Principal Judge, Araria, which was registered as Maintenance Case No. 104 of 2019. The said maintenance case was disposed of, directing the present petitioner to pay



maintenance at the rate of Rs. 6000/- per month.

3. Being aggrieved against the quantum of maintenance, the petitioner/husband has filed the instant revision before this Court.

4. It is contended on behalf of the petitioner that petitioner works as a daily wage labourer in the Forest Department and his daily wage is Rs. 373/-. Thus, his monthly income is Rs. 10,000/- approximately. The children of the parties are being maintained by the petitioner himself. Therefore, the Opposite Party No. 2/wife does not need any money for maintenance of the children of the parties. The Trial Court failed to consider the monthly income of the petitioner and directed him to pay almost two-third of his income towards maintenance to his wife. The maintenance amount being excessive, the instant revision has been filed.

5. The learned Advocate on behalf of the Opposite Party No. 2/wife, on the other hand, submits that the petitioner/husband is the owner of 10 *bighas* of agricultural land. He earns a substantial amount through agriculture and the claim of the petitioner that he earns Rs. 10,000/- per month is not correct. Therefore, there is no reason for any interference upon the order passed by the learned Principal Judge, Araria.



6. Having heard the learned counsels for the parties and on perusal of the materials on record as well as the L.C.R., I do not find any document filed by either of the parties in order to prove the ownership over agricultural land by the petitioner. On the contrary, all the witnesses on behalf of the Opposite Party No. 2 stated that the petitioner earns Rs. 35,000/- per month by looking after the trees planted by the Forest Department.

7. The petitioner, on the other hand, has filed the documents relating to his wages, which proves his monthly income. Thus, in the absence of any proof of income by way of cultivation or agriculture, this Court does not have any other alternative but to hold that the petitioner earns Rs. 10,000/- per month. It is an established principle of law that the wife is entitled to get one-third of the monthly income of her husband towards maintenance. Thus, the wife is entitled to get Rs. 3,000/- per month towards maintenance allowance from her husband.

8. The learned Principal Judge, Araria failed to consider this aspect of the matter and granted maintenance allowance at the rate of Rs. 6,000/- per month without any lawful basis. Therefore, order passed by the learned Principal



Judge, Araria in Maintenance Case No. 104 of 2019 is liable to be modified.

9. In view of the above discussion, the instant revision is disposed of directing the petitioner to pay monthly maintenance allowance at the rate of Rs. 3,000/- per month from the date of filing of the application in the Court below.

10. The petitioner is also directed to pay the arrear maintenance within six monthly installments along with the current maintenance within 7<sup>th</sup> of each succeeding month.

11. The L.C.R. be returned to the Court below along with record.

12. The instant revision is accordingly disposed of.

**(Bibek Chaudhuri, J)**

uttam/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

