

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.313 of 2024**

Chandan Kumar son of Rajendra Chaturvedi, Permanent resident of Village-Kanjiyar, P.S.-Dobhi, District-Gaya, presently at C/o-Anil Kumar Sinha, L-3, Brahamast Tank, Mayur Vihar, Chandchaura Bypass, P.S.-Vishnupad, District-Gaya.

... .. Petitioner/s

Versus

1. Lata Kumari @ Lata Chaubey Wife of Chandan Kumar, Daughter of Madhusudan Pandey, Permanent at Village-Kanjiyar, P.S.-Dobhi, District-Gaya, presently at Village-Oob, P.S.-Obra, District-Aurangabad, Bihar.
2. Anmol Kumar, Son of Chandan Kumar through his mother Lata Kumari @ Lata Chaubey, Permanent at Village-Kanjiyar, P.S.-Dobhi, District-Gaya, presently at Village-Oob, P.S.-Obra, District-Aurangabad, Bihar.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Avinash Singh, Advocate

For the Respondents: Mr. Arvind Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**

ORAL ORDER

4      21-04-2025                      Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The petitioner is aggrieved by the order dated 03.11.2023 passed by learned Principal Judge, Family Court, Aurangabad in Maintenance Case No. 107 of 2020 whereby and whereunder while setting aside the *ex parte* order/judgment dated 27.06.2022 passed by the same court, the learned trial court directed the opposite party/petitioner to make interim maintenance of Rs. 14,000/- per month to the respondent wife.



3. Learned counsel for the petitioner submits that before passing the order for maintenance, the learned trial court did not hear the petitioner and did not ask for the affidavit of the parties in terms of the guidelines issued by the Hon'ble Supreme Court in the case of *Rajnesh Vs. Neha & Anr.*, reported in *(2021) 2 SCC 324*. Without consideration of the income and liabilities of the parties, the order for interim maintenance has been passed. Learned counsel further submits that an application has been filed for modification of the order dated 03.11.2023 by which the petitioner was directed to make payment of interim maintenance of Rs. 14,000/- per month. Learned counsel further submits that the petitioner has already been making payment of Rs. 5,000/- per month as interim maintenance in terms of order 24.08.2022 passed by the learned District and Sessions Judge, Aurangabad in B.P. No. 858 of 2022. Therefore, the impugned order is not sustainable.

4. Learned counsel for the respondents submits that the present petition is pre-mature as the petitioner has the opportunity to agitate the matter before the learned Principal Judge, Family Court, Aurangabad since the petitioner claims he has already moved before the learned Principal Judge, Family Court, Aurangabd for modification of the order dated



03.11.2023 granting interim maintenance of Rs. 14,000/- per month to the respondent wife.

5. Perused the record.

6. Perusal of record shows the order assailed before this Court has been passed in disregard to the directions of the Hon'ble Supreme Court in the case of **Rajnesh** (supra). It is expected from the learned Principal Judge, Family Court, Aurangabad that before passing order granting interim or final maintenance, the income and liabilities of the parties would be taken into consideration. The petitioner is directed to approach the Court of learned Principal Judge, Family Court, Aurangabad where he claims his application is already pending for modification of the order dated 03.11.2023 so far as it relates to grant of interim maintenance to the respondent wife. The learned Principal Judge, Family Court, Aurangabad would give due consideration to the rival submission of the parties and thereafter passed a reasoned order while considering the claim of the respondent wife for interim maintenance.

7. The petition of the petitioner seeking modification of the order dated 03.11.2023 shall be disposed of within a month from the date of receipt/production of a copy of this order.



8. In terms of aforesaid direction, the present petition  
stands disposed of.

**(Arun Kumar Jha, J)**

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