

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.227 of 2023

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

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Guddi Devi @ Kumari Guddi W/O Bipin Kumar, D/O Hari Yadav R/O Village- Miltipara Also Known As Bhisti Para, P.S- Dhanbad, Distt.- Dhanbad, At Present R/O Village- Rajebigha, P.S- Pakribarawan, Distt.- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bipin Kumar S/O Ramswaroop Yadav R/O Village- Near Miltipara Also Known As Bhisti Para High School, P.S- Dhanbad, District- Dhanbad, Jharkhand.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manisha Prakash, Advocate
For the Respondent/s	:	Mrs. Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 4 21-04-2025 The petitioner has filed the instant revision for enhancement of maintenance allowance on the ground that the Trial Court did not consider that the respondent No.2 earns Rs.59,518/- per month as his gross salary in the month of October, 2022. By this time, salary of the respondent No.2 is obviously increased. Secondly, it is contended on behalf of the petitioner that the respondent No.2 has two residential properties one at Sikandra in State of Bihar and another at Dhanbadh in the State of Jharkhand. Both the said two houses are tenanted. He received approximately a sum of Rs.1,00,000/- per month towards rent. Moreover, he has three acres of agricultural land, from which he receives considerable amount



of money by way of cultivation. The Trial Court did not considered all such aspect of the matter and directed the respondent No.2 to pay maintenance only at the rate of Rs.8,000/- per month.

2. It appears from the record that the notice of the instant proceeding proceeding was served upon the respondent No.2 but he preferred not to appear before this Court to contest the instant revision. Therefore, this Court had no other option to take up the instant revision for hearing ex-parte. On perusal of the impugned order, this Court finds that the consideration made by the Trial Court with regard to quantum of maintenance is not supported by legal precedence. It is already decided by the Hon'ble Supreme Court that a petitioner is entitled to get at-least 1/3rd of the salary of her husband towards maintenance.

3. It is also trite that the income of the respondent No.2 on the date of disposal of the application under Section 125 of the Cr.P.C. shall be taken into consideration. In the month of January, 2025 his salary is obviously increase. Even if this Court accepts the Rule of 1/3rd of the salary to be paid to the petitioner towards maintenance, maintenance amount ought to have been settled at the rate of Rs.20,000/- on the date of 21.12.2022 when the revisional application was disposed of.

4. Moreover, the Trial Court did not give any



opportunity to the petitioner to produce documentary evidence relating to residential and agricultural property of the respondent No.2.

5. Considering all such aspect of the matter, this Court is of the view that the impugned order cannot sustain, in view of the fact the order suffers from gross material irregularity and non-consideration of the evidence on record.

6. Therefore, the impugned order is set aside and Maintenance Case No.49 of 2018 is revived to its file.

7. The learned Principal Judge, Family Court at Nawada is directed to give an opportunity to the parties to produce documentary evidence relating to the residential and agricultural property of the respondent No.2 and also the currency salary slip of the respondent No.2 and on the basis of his income, the Trial Court is directed to modify the impugned order dated 21.12.2022 within a period of six months from the date of communication of this order.

8. Accordingly, the instant criminal revision is thus, disposed of.

(Bibek Chaudhuri, J)

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