

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.305 of 2025

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

Vivekanand Manjhi S/O Late Chitranjan Manjhi R/O- Village-Nahri, Ward No.8, P.S - Laukaha, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bharti Yadav W/O Vivekanand Manjhi, D/O Rajendra Prasad Banaita R/O Village- Nahri, Ward No. 8, P.S- Laukaha, Dist.- Madhubani. At present Opposite Party No. 2 and 3 both are resident of Village- Khargama, P.S- Phulparas, Distt.- Madhubani.
3. Hansmani Kumar S/O Vivekanand Manjhi living with mother Bharti Yadav Under guardianship of Opposite Party No. 2. R/O Village- Nahri, Ward No. 8, P.S- Laukaha, Dist.- Madhubani. At present Opposite Party No. 2 and 3 both are resident of Village- Khargama, P.S- Phulparas, Distt.- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha
For the Respondent/s : Ms. Rita Verma

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 22-07-2025 The instant criminal revision is directed against an order of maintenance passed by the learned Principal Judge, Family Court, Madhubani M.R. Case No. 179 of 2022 directing the petitioner, herein, to pay maintenance at the rate of Rs. 7,000/- per month to the O.P. No. 2 and Rs. 4,000/- to the O.P. No. 3. Beside the said amount, the petitioner was directed to pay a sum of Rs. 3,000/- as litigation cost to the opposite party no. 2.

2. The aforesaid order was challenged by the petitioner/husband on the ground that the petitioner does not have enough source of income to maintain his wife. He works as



a labourer in a business dealing with construction of tents and earns Rs. 7,000/- per month. Apart from the said income, he earns Rs. 20,000/- per annum from the cultivation. Thus, total income of the petitioner is Rs. 1,04,000/- (One lakh four thousand) per annum. Secondly, it is contended on behalf of the petitioner that the O.P. No. 2 is more educated than the petitioner. She is a graduate and she has been working as a Laboratory Assistant in a private college and earns Rs. 6,232/- per month. By the said money she can maintain herself. As the O.P. No. 2 has sufficient source of income to maintain herself, she is not entitled to get any maintenance. Thirdly, the learned Advocate on behalf of the petitioner submits that the O.P. No. 2 filed a case under Section 498A of the IPC and other co-ordinate penal provisions. While granting bail, this Court directed the petitioner to pay Rs. 3,000/- per month. The petitioner has been going on to pay the said amount. The trial court did not make any adjustment of the said amount and directed the petitioner to pay more amount than what he earns per month. If the salary of the petitioner is Rs. 7,000/-, how can he pay a sum of Rs. 11,000/- per month to the O.P. Nos. 2 and 3. It appears from the record that in the trial court, both the parties have filed affidavits of assets and liabilities for consideration at the time of delivery



of judgment of the proceeding under Section 125 of the CrPC.

3. I have carefully gone through the impugned order, surprisingly enough, the learned Principal Judge, Family Court, Madhubani did not take any care to deal with and assess the affidavits of assets and liabilities filed by both the parties. In paragraph 81 of **Rajnesh Vs. Neha** reported in **(2021) 2 SCC 324**, the Hon'ble Supreme Court has observed as under:-

“81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meager that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.”

4. In the instant case, the learned Principal Judge,



Madhubani did not consider above guideline of the Hon'ble Supreme Court while passing the impugned order. No satisfaction arises to the effect that the petitioner earns more than Rs. 7,000/- per month from his salary. The trial judge decided the quantum of maintenance on the basis of surmise and conjecture when he hold:- "it is in habit of people employed in unorganized sector to conceal his or her income." Without any specific evidence to the effect that the present petitioner has really concealed his income and he earns more than Rs. 7,000/- per month and is able to pay Rs. 11,000/- per month plus the amount which he was directed to pay as the condition for bail. The impugned order cannot be sustained as the order under challenge is without any *bona fide* reason. It is needless to say that reason is the soul and heart of an order. The order cannot be held to be alive without heartbeats and soul searching. Soul searching of an order shall be done by the Judge while deciding the dispute to come to a finding, supported by clarity, reason and brevity of the decision.

5. In view of what has been stated above, the impugned order is liable to be set aside so far as it relates to payment of maintenance allowance to O.P.No.2. The order passed by the trial court in respect of payment of maintenance



allowance to the minor child of the parties is affirmed.

6. The Maintenance Case bearing M.R. No. 179 of 20225 be remitted back to the Court of the learned Principal Judge, Family Court, Madhubani for proper adjudication with regard to the maintenance payable to the O.P. No. 2 by the petitioner on the basis of the evidence on record and the affidavits of assets and liabilities filed by both the parties.

7. The instant revision is thus, allowed in part. There shall, however, be no order as to cost.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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