

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.510 of 2024

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

Dr Shaleen Prasad Son Of Sharda Prasad Village- House No. 51, Sector 50,
Po- Head Office, Ps- Kotwali, Sector- 49, Police Commissionerate, Gautam
Buddha Nagar, Noida, Uttar Pradesh-201301,

... .. Petitioner/s

Versus

1. Dr. Neha Shankar Wife Of Dr. Shaleen Prasad Village- House No. A-51, Sector-50, Po- Head Office , Ps- Kotwali Sector-49 Police Commissionerate, Gautam Buddha Nagar, Noida 201301, Up And Address Chapra Of All Is C/O- Dr Sunil Shankar, Shiv Parwati Niketan Madhav Bihari Lane, Salempur, Po- Head Post Office Chapra Ps- Chapra Town, Dist- Chapra, Bihar And P/S- Residing At House No. E98/10, Ground Floor, Sector 50, Po- Head Office, Ps- Kotwali Sector-49, Police Commissionerate, Gautam Buddha Nagar, Noida, U.P.
2. Nandita Prasad Yadav Daughter of Dr Shaleen Prasad Village- House No. A-51, Sector-50, Po- Head Office , Ps- Kotwali Sector-49 Police Commissionerate, Gautam Buddha Nagar, Noida 201301, Up And Address Chapra Of All Is C/O- Dr Sunil Shankar, Shiv Parwati Niketan Madhav Bihari Lane, Salempur, Po- Head Post Office Chapra Ps- Chapra Town, Dist- Chapra, Bihar And P/S- Residing At House No. E98/10, Ground Floor, Sector 50, Po- Head Office, Ps- Kotwali Sector-49, Police Commissionerate, Gautam Buddha Nagar, Noida, U.P.
3. Manjari Prasad Yadav Daughter of Dr Shaleen Prasad Village- House No. A-51, Sector-50, Po- Head Office , Ps- Kotwali Sector-49 Police Commissionerate, Gautam Buddha Nagar, Noida 201301, UP And Address Chapra of All is C/O- Dr Sunil Shankar, Shiv Parwati Niketan Madhav Bihari Lane, Salempur, PO- Head Post Office Chapra PS- Chapra Town, Dist- Chapra, Bihar & P/S- Residing At House No. E98/10, Ground Floor, Sector 50, Po- Head Office, Ps- Kotwali Sector-49, Police Commissionerate, Gautam Buddha Nagar, Noida, UP

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajni Kant Jha, Advocate Ms. Prisu Snehil, Advocate Mr. Aman Anand, Advocate Mr. Avinash Kumar Sinha, Advocate
For the Respondent/s	:	Dr. Rajesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 22-04-2025 This is an application under Section 19(1) of the
Family Courts Act, challenging the legality, validity and



propriety of an order dated 06.04.2024 passed by the learned Principal Judge, Family Court, Saran at Chapra in Maintenance Case No.94 of 2021.

2. It appears from the materials on record as well as the impugned order that marriage of the petitioner was solemnized with the opposite party No.1 according to Hindu rites and ceremonies on 21.11.2007.

3. Indisputably, the petitioner is a doctor and at the time of institution of maintenance case he was posted as Assistant Professor in Rajiv Gandhi Super Specialist Hospital. It appears from the revisional application that presently he is posted as a Specialist Grade-II Doctor of (Thoracic Surgery) in National Institute of Tuberculosis and Respiratory Diseases, New Delhi.

4. It is contended by the petitioner that his net pay at present is Rs.1,02,824/- per month as per pay slip for the month of April, 2024. Admittedly, the opposite party No.1 gave birth to two girl children in the said wedlock, who are now aged about 11 years and 14 years respectively.

5. The materials on record reveals that a matrimonial discord is under going between the parties and they are living separately. The opposite party no.1 is living separately with her



two daughters.

6. The Trial Court on careful consideration of the evidence on record directed the petitioner to pay maintenance at the rate of Rs.40,000/- in the following manner, Rs.10,000/- per month of opposite party No.1 and Rs.15,000/- each for opposite party Nos.2 & 3. The said order is challenged by the petitioner on the ground that in a case under Section 498A/34 and 406 of the I.P.C. the petitioner's prayer for anticipatory bail was granted by this Court in Cr. Misc. No.48990 of 2022, on the basis of petitioner's own submission that he is ready to pay a sum of Rs.30,000/- per month as maintenance to opposite party Nos. 2 & 3 in the first week of every month. A coordinate Bench of this Court accepted such submission with a caveat that the said payment shall be subject to any order passed in matrimonial maintenance case or any collateral proceeding.

7. The learned Advocate for the petitioner next draws my attention to an order dated 07.12.2023 passed in a Divorce Suit No.172 of 2021 upon an application under Section 24 of the Hindu Marriage Act filed by the opposite party No.1. The learned Principal Judge, Family Court at Gautambuddh Nagar disposed of the said application under Section 24 of the Hindu Marriage Act directing the petitioner to pay Rs.36,000/- per



month till the disposal of the divorce case.

8. It is also contended on behalf of the petitioner that subsequent to the order, the learned Principal Judge, Family Court, Saran at Chapra disposed of the maintenance case directing the petitioner to pay in all Rs.40,000/- per month towards maintenance allowance without giving any adjustment of the amount, which was directed to be paid by the petitioner to the opposite parties in the above-mentioned two proceedings. If all the three orders are required to be complied with, the petitioner will be under obligation to pay Rs.1,06,000/- per month.

9. The learned Advocate on behalf of the petitioner further submits that he has been going on paying quarterly amount of Rs.72,000/- for the education of two daughters of the parties. The said amount was also not adjusted in the maintenance proceeding. The learned Advocate for the petitioner also submits that the opposite party No.1 is a Dental Surgeon and she is pursuing M.D.S. at present. It is contended by the petitioner that her wife is earning approximately Rs.75,000/- per month as fees from different private dental clinic for her professional engagement. It is, however, not proved by any supporting document that the wife of the



petitioner earns Rs.75,000/- per month by producing any documents regarding earning or income tax statement etc.

10. On the other hand, the opposite party No.1 files a pay slip for the month of April, 2024 on perusal of which it is found that gross salary of the petitioner was Rs.1,32,660/- and net salary was Rs.1,02,824/- per month. The petitioner has not filed the current pay slip for the month of March, 2025. It is expected that his income is increased during the said period. There is no denial on the issue that the petitioner does not earn any amount by private practice. The Court can take judicial notice of average income of Cardio Thoracic Surgeon in the Capital City of the country. Therefore, this Court is of the view that the corrected picture regarding income of the petitioner is not forthcoming before this Court.

11. At the same time, this Court is not unmindful to note that the petitioner cannot be fashioned with different statutory provisions relating to payment of maintenance. He cannot be compelled to pay money towards money as a condition precedent for anticipatory bail, again he cannot be directed to pay a sum of Rs.36,000/- in a proceeding under Section 24 of the Hindu Marriage Act without granting any adjustment of the said sum of Rs.30,000/- and subsequently he



cannot directed to pay Rs.40,000/- without adjustment of the aforesaid monitory allowances directed to be paid by the petitioner.

12. In view of the above discussion, this Court holds that the petitioner is under obligation to pay only one amount for the maintenance of his wife and minor daughters.

13. Now comes the question with regard to quantum of maintenance.

14. The Trial Court granted Rs.40,000/- towards maintenance to the opposite party Nos.1, 2 & 3 jointly. Both the parties belong to higher aquiline of the society, while petitioner is a Cardio Thoracic Surgeon, the opposite party No.1 is also a Dental Surgeon pursuing M.D.S.. This Court also no evidenciary proof is filed during trial of the case as to whether the opposite party No.1 has earning capacity while studying M.D.S. or not.

15. It is needless to say that the parties are entitled to leave their life as per their status and standing in the society.

16. Learned Advocate for the petitioner submits that the petitioner pays Rs.72,000/- quarterly towards school fees of his two children, as a father his obligation to impart proper education to his children. But admittedly, he does not pay any



money for food, clothing and other needs of the opposite party Nos.2 & 3, which he is under obligation to pay.

17. The learned Advocate on behalf of the opposite parties submits that the petitioner used to comply with the order passed by the bail Court paying/depositing the sum of Rs.30,000/- per month till April, 2024, but after passing of the order dated 06.04.2024 he has stopped paying the said amount. This fact has not been denied by the learned Advocate on behalf of the petitioner.

18. On careful perusal of the impugned order and considering the status and standard of the parties, this Court is of the view that the order directing the petitioner to pay Rs.40,000/- per month towards maintenance allowance does not suffer from any illegality or material irregularity, except on the point that the learned Principal Judge failed to pass any order of adjustment of the amount which was directed to be paid by the petitioner in favour of the opposite parties.

19. In view of the order passed in the maintenance proceeding under Section 125 of the Cr.P.C. dated 06.04.2024, the petitioner need not pay Rs.30,000/- as maintenance allowance as a condition for anticipatory bail and Rs.6,000/- towards alimony pendente lite. The said amount shall be



adjusted with the impugned order passed in Maintenance Case No.94 of 2021. In addition to the said amount of Rs.40,000/-, the petitioner is directed to go on paying quarterly school fees of the opposite party Nos.2 & 3 as before.

20. With the above modification, the instant criminal revision is disposed of, there shall no order as to cost.

(Bibek Chaudhuri, J)

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