

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.526 of 2024

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

Ushakar Choudhary Son of Rati Kant Choudhary R/o vill.- Pokhram, P.S.-
Biraul, Dist.- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shabnam Devi Wife of Ushakar Choudhary R/O Vill.- Pokharam, P.S.-
Biraul, Dist.- Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Mohan Jha, Advocate
For the State	:	Mrs. Asha Kumari, A.P.P.
For the O.P. No.2	:	Mr. Manish Kumar No.13, Advocate Mr. Rohit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 23-06-2025 Petitioner is the husband of the opposite party No.2.

The opposite party No.2 filed an application under Section 125 of the Cr.P.C. before the learned Principal Judge, Family Court, Darbhanga, which was registered as Maintenance Case No.131 of 2017. The said maintenance case was disposed of by an order dated 29.04.2024 directing the petitioner to pay maintenance at the rate of Rs.8,000/- per month in favour of the present opposite party No.2 from the date of filing of the maintenance application i.e. 02.08.2017.

2. The petitioner has challenged the said order on various grounds:- first, he states that his marriage was solemnized according to Hindu Rites and Ceremonies on 20.01.2005 and opposite party no.2/wife immediately after



going to her matrimonial home, she started filing different cases against the petitioner/husband and in-laws. It is also submitted by him that the petitioner was working in CMS Company, Mumbai (Maharashtra) before COVID Pandemic and during COVID time he lost his job. He does not have any income at present. It is further contended by the petitioner that the opposite party No.2 is an adamant lady, quarrelsome in nature, she does not have any intention to stay happy and peacefully conjugal life with the petitioner.

3. It is further contended by the petitioner that he has been presently working under his father and earns Rs.8000-10000/- per month by selling computer hardware. It is not possible for him with the said income to pay a sum of Rs.8,000/- per month. Moreover, it is submitted on behalf of the petitioner that the petitioner has been going on paying Rs.2,000/- per month, which was directed to be paid to the opposite party No.2/wife in Matrimonial Suit No.106 of 2012. The Trial Court even did not give any adjustment of the said amount.

4. The learned Advocate on behalf of the petitioner submits that it is not the case of the opposite party No.2 that she has been ousted from her matrimonial home. On the other hand, the petitioner and his parents were ousted from their ancestral



home and the opposite party No.2 is in possession of the entire matrimonial home. She has been running a private coaching class and earns a considerable amount from the said coaching.

5. On the other hand, it is urged by the learned Advocate for the opposite party No.2 that the opposite party does not have any place to stay and she has been staying on the Varamdah of her matrimonial home. All the rooms are kept under lock and key by the present petitioner and his parents. It is not disputed by the learned Advocate for the opposite party No.2 that the opposite party No.2 gets Rs.2,000/- per month but submits that the said amount of Rs.2,000/- is not at all sufficient for the maintenance of the petitioner, who has been residing alone being refused and neglected by her husband.

6. Moreover, the learned Advocate for the opposite party No.2 submits that Matrimonial Suit No.106 of 2012 in which the said order was passed was dismissed by the Trial Court and the petitioner has preferred a Misc. Appeal against the said decree of dismissal of Matrimonial Suit before this Court. It is not known to the learned Advocate for the opposite party No.2 as to whether the petitioner has been going on paying the said sum of Rs.2,000/- per month or not.

7. In the instant case, on careful perusal of the



materials on record as well as the evidence of the parties and the impugned order, this Court finds that admittedly the petitioner is legally married husband of the opposite party No.2. It is also not in dispute that the petitioner and the opposite party No.2 are now residing separately.

8. During Trial of the case, both the parties filed affidavits of assets and liabilities. In her affidavits of assets and liabilities it is stated by the opposite party No.2 that she gets Rs.2,000/- per month from her husband as interim maintenance. It also appears from her Bank statement that she receives a sum of Rs.1,000/- per month as incentive from the Central Government.

9. The petitioner/husband, on the other hand, stated by way of affidavit that he earns only Rs.7,000/- per month, it is stated by him that he lost his job during Covid Pandemic and at present he does not have any source of income.

10. The Trial Court on careful scrutiny of the evidence on record found that the petitioner/husband is engaged in a private job and is getting salary of Rs.10,000/- per month.

11. On the other hand, the opposite party No.2 is consistent with her submission that she earns Rs.2,000/- per month from her husband in Matrimonial Case No.106 of 2012.



12. Considering the financial condition of the parties and their respective obligations as well as present day market price of essential articles, which a person barely needs for his sustenance, I am of the view that the financial condition of the petitioner justifies payment of maintenance allowance at the rate of Rs.5,000/- per month to the opposite party No.2 in addition to Rs.2,000/- which she is getting from her husband as per the order passed in Matrimonial Case No.106 of 2012.

13. Thus, the amount of maintenance allowance is modified from Rs.2,000/- to Rs.5,000/- per month in the proceeding, which the petitioner is under obligation to pay from the date of filing of the application under Section 125 of the Cr.P.C.. The current maintenance allowance shall be paid within 10th of each succeeding month of English calendar year and the arrear salary shall be paid in twelve equal monthly installments to the opposite party No.2.

14. With the above modification of the impugned order passed in Maintenance Case No.131 of 2017, the instant revision is disposed of.

(Bibek Chaudhuri, J)

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