

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.569 of 2024

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

Kumar Chandan, Son of Shri Shiv Shankar Thakur, R/o Mohalla- Ganga Sagar Bhauwara, P.S.- Madhubani Town, District- Madhubani

... .. Petitioner/s

Versus

1. Kumari Sangita, Wife of Kumar Chandan, D/o Shri Shiv Shankar Thakur R/o Mohalla- Ganga Sagar Bhauwara, P.S.- Madhubani Town, District- Madhubani At present Residing at Mohalla- Raj Kumar Ganj, P.S.- Darbhanga, District- Darbhanga
2. Bittu Kumar, Son of Shri Kumar Chandan Under the guardianship of his mother namely Kumari Sangita R/o Mohalla- Ganga Sagar Bhauwara, P.S.- Madhubani Town, District- Madhubani At present Residing at Mohalla- Raj Kumar Ganj, P.S.- Darbhanga, District- Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Thakur, Sr. Advocate Mr.Ritwik Thakur, Advocate Mrs.Vaishnavi Singh, Advocate
For the Respondent/s	:	Mr.Baidya Nath Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 23-07-2025 The petitioner is the husband of the Opposite Party No. 1 and father of the Opposite Party No. 2.

2. The Opposite Party No. 1 filed an application under Section 125 of the Cr.P.C., which was registered as Maintenance Case No. 81 of 2013 before the learned Principal Judge, Family Court, Madhubani. The said application was disposed of by the learned Principal Judge, Family Court, Madhubani, on 28th of March, 2024, directing the petitioner to pay maintenance allowance at the rate of Rs. 10,000/- per month to the Opposite Party No. 1 and Rs. 6,000/- per month in favour of the Opposite



Party No. 2, total being Rs. 16,000/- per month w.e.f. the filing of the maintenance petition. It is also directed that there shall be 5 per cent increase in the maintenance awarded to the applicants after every two years from the date of the order.

3. The said order is under challenge by the petitioner on the following grounds:-

(i) The Opposite Party No. 1 and 2 voluntarily left the petitioner without any rhyme or reason and therefore under the provision of Section 125 (4) of the Cr.P.C., the opposite parties are not entitled to get any maintenance; and

(ii) The petitioner is visually disabled. He is having 80 per cent of disability of vision. He runs a medicine shop and from the income of his business, it is not possible for him to pay Rs. 16,000/- per month in favour of the opposite parties.

4. The learned Advocate on behalf of the opposite parties, on the other hand, submits that marriage of the parties was solemnized on 11th of July, 2008. After few days of marriage, she was driven away from her matrimonial home. Previously, she was filed an application under Section 125 of the Cr.P.C., which was registered M.R. Case No. 228 of 2012. The said case was amicably settled between the parties. However after few days of settlement, the opposite parties were again



driven away from her matrimonial home. Therefore, this is not the case where the petitioner can take the advantage of Section 125 (4) of the Cr.P.C.

5. Having heard the learned Advocates for the parties and on perusal of the materials on record as well as the impugned order, this Court finds that neither of the parties filed affidavits of assets and liabilities in the Court below to ascertain the income and expenditure incurred by the parties. There is practically no evidence as to the income of the petitioner. The petitioner has stated that he is dealing with business of wholesale franchise of medicine. He also has taken the agency of Zavik Drugs, but the Trial Court did not mention the monthly or yearly income of the petitioner so that this Court can ascertain as to whether the amount of maintenance which has been granted by the Trial Court ought to be affirmed or not.

6. For the reasons stated above, the instant revision is disposed of directing both the parties to file affidavits of assets and liabilities within 3 weeks from the date of communication of this order.

7. Trial Court is directed to right down and pass fresh order on the quantum of maintenance on the basis of the affidavits of assets and liabilities to be filed by the parties within



3 months from the date of filing such affidavits of assets and liabilities.

8. For the reasons stated above, the impugned order dated 28th of March, 2024, passed in M.R. Case No. 81 of 2013 by learned Principal Judge, Family Court, Madhubani, is set aside.

9. The revisional application is, accordingly, disposed of.

(Bibek Chaudhuri, J)

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