

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.815 of 2019**

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

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Raj Laxmi @ Raj Laxami Kumari W/o Suranjeet Kumar @ Suranjit Yadav  
Resident of Village - Patuana, P.S.- Bihar, Dist.- Nalanda, at present  
BlockColony Biharsharif, P.S.- Laheri, Dist.- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar
2. Suranjeet Kumar @ Suranjit Yadav Son of Late Murari Yadav @ Late Mauzi  
Yadav Resident of Village - Patuana, P.S.- Bihar Dist.- Nalanda.

... .. Respondents

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**Appearance :**

|                    |   |                                         |
|--------------------|---|-----------------------------------------|
| For the Petitioner | : | Mr. Rudal Singh,, Advocate              |
| For the State      | : | Mr. Upendra Kumar, APP                  |
| For the O.P. No.2  | : | Mr. Sudish Kumar, Advocate              |
|                    |   | Mr. Birendra Prasad Chaudhary, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL JUDGMENT**

**Date : 20-02-2025**

The present Criminal Revision Petition has been preferred by the petitioner against the impugned order dated 17.05.2019 passed by learned Principal Judge, Family Court, Nalanda at Bihar Sharif in Maintenance Case No. 109M of 2015, whereby learned Family Court has directed Opposite Party No.2/Suranjeet Kumar to make monthly payment of Rs. 6,000/- to the wife/petitioner and Rs. 4,000/- to his daughter towards their maintenance, since the date of passing of the order i.e 17.05.2019.

2. I heard learned counsel for the petitioner, learned APP for the State as well as learned counsel for the Opposite Party No.2.

3. Learned counsel for the petitioner submits that



the petitioner had prayed for monthly payment of Rs. 8,000/- to her and Rs. 7,000/- to her daughter towards their maintenance. However, learned Family Court has directed the Opposite Party No.2 to pay only Rs.6,000/- to the wife/petitioner and Rs. 4,000/- to her daughter towards their maintenance, despite the fact that as per the evidence on record, the petitioner and her daughter could have been awarded the maintenance as prayed for by them. Moreover, learned Family Court should have directed the payment of the maintenance from the date of the filing of the maintenance petition.

4. However, learned APP for the State as well as learned counsel for the Opposite Party No.2 defend the impugned order submitting that there is no illegality or infirmity in it and the present petition is liable to be dismissed. Learned counsel for the Opposite Party No.2 also submits that the petitioner has the liability of his dependent father and mother.

5. I considered the rival submissions of the parties and perused the material on record.

6. I find that the marriage between the petitioner/wife and the Opposite Party No.2 is not disputed and as per the record, the marriage between them was solemnized in



the year 2010. It is also not disputed that one daughter was also born out of the wedlock between the petitioner and her husband/Suranjeet Kumar in the year 2012. I further find that as per the claim of the petitioner/wife, she along with her daughter is living at her *maike* on account of cruelty being committed by her husband on account of non-fulfillment of additional demand of dowry and she has also filed a criminal case bearing Nalanda Mahila P.S. Case No. 25 of 2014 for the offences punishable under Sections 498A, 379, 354 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. It has been further claimed that the husband of the petitioner is doing job in Petroleum Department, earning Rs. 25,000/- per month. It is further claimed that the husband has other sources of income like truck transport and agricultural land.

7. However, on notice, the husband appeared in the maintenance proceeding and contested the maintenance petition filed by his wife. He has admitted the marriage and not denied the birth of his daughter. He has also admitted that he is doing job in Petroleum Department. But he has denied that he has monthly salary of Rs. 25,000/-. However, he has not filed any documentary proof in support of his salary. He has also admitted that he has two trucks. However, he has denied that he



has committed any cruelty against his wife.

8. After evidence and hearing of both the parties, learned Family Court has found that the petitioner is living in her *maike* along with her daughter with sufficient reason and monthly salary of the petitioner is Rs. 25,000/- besides having income from two trucks, and directed the husband to pay Rs.6,000/- to the petitioner/wife and Rs.4,000/- to her daughter towards their maintenance from the date of the order.

9. I find that the marriage between the petitioner/wife and the Opposite Party No.2 is admitted. Even the birth of her daughter out of the wedlock is also not disputed. Even salary of Rs.25,000/- has not been rebutted by the husband by filing his salary slip. Hence, the monthly salary of the petitioner is Rs.25,000/- besides income from truck business. His parents are also dependent upon him and his brother.

10. Hence, in view of the aforesaid facts and circumstances regarding the income and the number of dependents, I find no illegality or infirmity in the impugned order. Hence, the present petition is dismissed, upholding the quantum of the maintenance amount as per the impugned order passed by learned Family Court.



**11.** However, learned Family Court has committed error by awarding the maintenance from the date of order, whereas he should have directed the O.P. No.2 herein to pay maintenance since the date of filing of the maintenance petition in view of Section 125(2) Cr.PC, because the maintenance petition was filed when the wife and the daughter were neglected to be maintained and they were in need for the maintenance amount from the O.P. No.2 which he was not paying. Hence, the impugned order is modified to the effect that the maintenance will be payable by O.P. No.2 herein, from the date of the filing of the maintenance petition.

**12.** The O.P. No.2 is also directed to pay the whole arrear amount to the petitioner/wife and her daughter towards their maintenance within three months in three equal installments. If the arrear is not paid within the stipulated time, learned Family Court is directed to take coercive measure against the Opposite Party No.2 to enforce this order.

**13.** The petitioner is also at liberty to filed any application under Section 127 Cr.PC for enhancement of the maintenance amount in view of any increment in the salary of O.P. No.2 or his income from other sources.

**14.** The petition is disposed of, accordingly.



15. LCR is directed to be sent back to the court below without any delay along with a copy of this order for information and needful of the Family Court.

(Jitendra Kumar, J.)

Chandan/-

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| AFR/NAFR          | NAFR       |
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