

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.557 of 2024

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

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Suman Kumari Wife Of Nishant Kumar Village- Birpur, Birpur East, Ward
No. 6, PS- Birpur, Near Petrol Pump, Dist- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nishant Kumar Son of Ranjeet Prasad Sah Village- Ganchi Chawk, Ps-
Kotwali, Dist- Munger At P/A- Shadipur, Machli Adarath, Near Chhoti Kali
Mandir, Ps- Kotwali, Dist- Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Saket Kumar, Advocate
For the State	:	Mr. Ajay Kumar Jha, APP
For the O.P. No. 2	:	Mr. Sanjiv Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 28-04-2025 The petitioner of Maintenance Case No. 21 of 2023

has approached this Court by filing an application under Section
19(4) of the Family Courts Act to enhance the monthly
allowance directed to be paid by the opposite party no.
2/husband by the learned Principal Judge, Family Court,
Begusarai *vide* order dated 25th July, 2023 from the date of
presentation of Maintenance Case, i.e., from 27th January 2023.

2. The marriage of the parties is not disputed. It is also
not disputed that they are living separately. In the application
under Section 125 of the CrPC, it is alleged by the petitioner
that the opposite party no. 2/husband used to earn Rs. 64,000/-
per month towards salary as an ASI in CISF. She also stated that
the opposite party no. 2 earns Rs. 50,000/- per month from rent.



The said averments made in the petition under Section 125 of the CrPC had not been specifically denied by the opposite party no. 2.

3. In the instant proceeding, the learned Advocate for the O.P. No. 2/husband submits that the husband's gross income is Rs. 64,000/- but his net salary is Rs. 35,000/- per month. Therefore, it is not possible for the opposite party no. 2/husband to pay more than Rs. 9,000/- per month as directed by the trial court.

4. In support of his contention, the learned Advocate for the O.P. No. 2 has not filed any salary slip to show net salary of the O.P. No. 2/husband and the amount statutory deduction in the form of income-tax and provident fund from the said gross salary. It is decided by the Hon'ble Supreme Court in ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy***, reported in ***(2017) 14 SCC 200*** that the opposite party is under obligation to pay at least 25% of his salary towards maintenance of the petitioner.

5. Considering the statutory deduction, this Court holds that the opposite party no. 2/husband at least gets Rs. 50,000/- per month towards net income and 25% of the said income comes to Rs. 12,500/- which the petitioner/wife is



entitled to get.

6. For the reasons stated above, the order of maintenance passed by the learned Principal Judge, Family Court, at Begusarai in Maintenance Case No. 21 of 2023 *vide* order dated 25.07.2023 is modified, directing the O.P. No. 2/husband, in the instant revision, to pay maintenance allowance to the petitioner at the rate of Rs. 12,500/- per month within 7th of each succeeding month from the date of the application.

7. The opposite party no. 2/husband is further directed to pay arrear maintenance from the date of filing of the application in 24 months installments.

8. The employer of the O.P. 2/husband is directed to deduct the aforesaid amount from the salary of the O.P. 2/husband and deposit the said amount in the bank account of the petitioner/wife which the petitioner shall supply to the drawing and disbursing officer of the opposite party no. 2.

9. With the above modification, the instant criminal revision is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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