

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.579 of 2024

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

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Bijay Prakash Malviya @ Vijay Prakash Malviya S/o Late Niranjana Kumar Malviya, Resident of Village Mahuli, P.O. - Gidhaur, P.S. - Gidhaur, Dist. - Jamui

... .. Petitioner/s

Versus

Kumari Deepa W/o Vijay Prakash Malviya, R/o vill - Mahuli, P.O. - Gidhaur, P.S. - Khairi, Distt. - Jamui, at present D/o Suresh Chandra Tiwari, R/o vill - Sohjana, P.O. - Sahjana, P.S. - Jhajha, Distt. - Jamui

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Dubey, Advocate
For the O.P.	:	Mr. Ankita Kumari, Advocate
		Mr. Simran Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 06-05-2025 The petitioner before this Court has filed an application under Section 19(4) of the Family Courts Act, 1984 challenging an order of maintenance passed by the learned Principal Judge, Family Court at Jamui in Maintenance Case No. 67M/2021 registered on an application under Section 125 of the CrPC and disposed of *vide* order dated 21st June 2024 directing the petitioner to pay maintenance allowance at the rate of Rs. 15,000/- per month being one-third of the net salary of the petitioner amounting to Rs. 43,167/- from the date of filing of the application. While the petitioner has not challenged the finding of the trial court with regard to the entitlement of the petitioner to get maintenance allowance, the impugned order



was challenged on the question of quantum of maintenance fixed by the learned trial court by passing the impugned order.

2. It is contended by the learned Advocate for the petitioner that the maintenance case was instituted on 23rd March, 2021. The application under Section 125 of the CrPC was disposed of on 21st June 2024, i.e., after a lapse of three years from the date of institution. It is admitted on behalf of the petitioner that in the month of March 2024, the petitioner used to get his net salary of Rs. 43167/- but in the month of March 2021 when the application was filed, his net salary was Rs. 34,200/- per month. If the petitioner is directed to pay one-third of his salary from the date of filing of the application then the amount of maintenance of Rs. 15,000/- would have been almost 45 % of the salary which he used to get in 2021 against the said amount of Rs. 15,000/- is more than the salary which he used to get in the year 2022-23. Therefore, the trial court did not consider that even if the petitioner was under obligation to pay one-third of his salary in the year 2021, it would not have been a sum of Rs. 15,000/-.

3. This Court finds substance in the submission made by the learned Advocate on behalf of the petitioner. The learned Advocate on behalf of the opposite party on principle admits



that as per the trial court's order, the maintenance amount was fixed at the rate of one-third of the net salary of the March 2021.

4. Under such circumstances, she submits that necessary order may be passed so that the Opposite party's interest may not be hampered. It is also submitted by the learned Advocate on behalf of the Opposite party that she is a handicapped lady and presently destituted due to refusal and negligence perpetrated by the petitioner to maintain her.

5. Having heard the learned Advocates on behalf of the petitioner and the Opposite Party, this Court is in agreement with the observation made by the learned trial court that the petitioner/wife is entitled to get one-third of the net salary of the petitioner. The petitioner has filed pay statement during the period commencing from March 2021 to June 2024, issued by the Block Education Officer, Gidhaur, Jamui. Since the trial court considered the salary slip of March, 2024, this court is of the view that while computing the maintenance allowance, this Court will consider the net pay for the month of March every year. In March 2021, the net pay was Rs. 32,635. Therefore, during the period from March 2021 to February 2022, the petitioner, opposite party herein, is entitled to get maintenance allowance at the rate of Rs. 10,880/-. From March 2021 to



February, 2022, the opposite party is entitled to get maintenance allowance at the rate of Rs. 11,740 per month from the month of March 2022 to February 2023. From the month of March 2023 to February 2024, she is entitled to get Rs. 12,820/-. Thereafter, she is entitled to get maintenance at the rate of Rs. 15,000/- per month. If in future the salary of the petitioner is enhanced, the maintenance allowance payable to the opposite party shall automatically be enhanced on the basis of net salary payable for the month of March of that particular year.

6. Since there shall obviously be some change in arrear maintenance, in view of the order passed hereinabove, the opposite party is at liberty to calculate afresh the amount of arrear salary and the amount which she received towards arrear salary, thereafter, if some amount remains out, she is at liberty to file execution case before the trial court.

7. With regard to current maintenance, the petitioner is directed to go on paying Rs. 15,000/- per month within 07th of each succeeding month.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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