

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.583 of 2023**

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

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Raghvendra @ Rahul @ Ragvendra Kumar S/O Damodar Prasad Singh R/O
Village- Dhiradar, Ward No. 12, P.S- Barahiya, Distt.- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Archana Kumari W/O Raghvendra @ Rahul Kumar And D/O Rajkishore
Singh R/O Village- Pidhauli, P.S- Teghra, Distt.- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate
For the Respondent/s : Mr. Mohammad Sufyan, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 10-04-2025 This is an application under Section 19(4) of the

Family Court Act filed by the husband/opposite party of

Maintenance Case No.13 of 2022 against the wife/petitioner

challenging the quantum of maintenance directed to be paid by

the learned Principal Judge, Family Court, Begusarai whereby

and whereunder the petitioner was directed to pay a sum of

Rs.7,000/- per month towards maintenance allowance to the

opposite party.

2. It is not in dispute that the opposite party No.2 is

the legally married wife of the petitioner. It is also not in dispute

that the opposite party No.2 presently does not reside with her

husband and she has been residing at her paternal home.



3. Indisputably, opposite party No.2 does not have any own income or sufficient means to maintain herself.

4. Under such factual background, the opposite party No.2 claimed maintenance from the petitioner alleging, inter-alia, that the petitioner is a well educated person having M.A. and D.El.Ed. Degree. He runs a coaching centre and by way of private tuition, he earns Rs.40,000/- per month. The opposite party No.2, however, in course of the hearing of maintenance case failed to produce any document or evidence in support of her claim that the petitioner runs a coaching centre and earns Rs.40,000/- per month.

5. It is also contended by the opposite party no.2 that the petitioner is having 05 Bighas of land and he earns some amount from cultivation. The Trial Court held on presumption that the petitioner earns Rs.30,000/- and granted maintenance allowance at the rate of Rs.7,000/- per month in favour of the opposite party No.2. The petitioner has challenged the said order on the following grounds :-

- (i) that the petitioner is unemployed
- (ii) that he has no source of income
- (iii) that he does not earn any money from private tuition



(iv) the agricultural land belongs to the joint family, therefore, earning from cultivation is divided amongst the co-sharers.

(v) the petitioner also denied that he owns shops of grocery materials at Lakhisarai.

6. Thus, it is contended by the petitioner that he does not have any source of income.

7. The impugned order was passed by the learned Principal Judge, Family Court, Begusarai on 23.12.2022.

8. It is not in dispute that the petitioner is an well educated person capable of earning. Though, there is no possible evidence in the form of documentation regarding the income of the petitioner and the opposite party No.2 failed to file any document regard his income. It is explained by the opposite party No.2 during his evidence that since the income of the petitioner is basically from imparting private tuition. There can be no documentary proof of his earning.

9. It is a trite law that the husband is under obligation to maintain his wife, who does not have any source of independent income or sufficient means to maintain herself. This obligation to maintain the wife also rests upon an unemployed person. The petitioner has completed his



postgraduate education and obtained D.El.Ed. degree. Therefore, he is capable of earning decent money for maintenance of his wife.

10. In view of such circumstances, the learned Principal Judge, Family Court, Begusarain notionally held that petitioner is capable of earning at-least Rs.30,000/- per month. The amount of Rs.7,000/- towards maintenance allowance is even below the 1/3rd of Rs.30,000/-.

11. Moreover, it is directed by the Hon'ble Supreme Court of India in the case of *Rajnish Vs. Neha & Ors.*, reported in *2021 (2) SCC 324* that the Trial Court shall pass order of maintenance from the date of application and not from the date of order.

12. Considering such view of the matter, I do not find any illegality or irregularity in the order impugned. Therefore, the instant criminal revision is dismissed.

(Bibek Chaudhuri, J)

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