

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.710 of 2021**

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

Sunil Kumar Yadav, Son Of Rajendra Prasad Yadav, Resident Of Shastri Nagar (New Gayatri Mandir), P.S.- Kasim Bazar, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Urvashi Kumari @ Rina, Wife Of Sunil Kumar Yadav, Daughter Of Late Madan Prasad Yadav Resident Of Chitragupt Nagar (Krishanagar), P.S.- Khagaria, District- Khagaria.

... .. Respondent/s

**Appearance :**

|                      |   |                                                         |
|----------------------|---|---------------------------------------------------------|
| For the Petitioner/s | : | Mr. Sanjay Sinha, Advocate<br>Md. Fazle Karim, Advocate |
| For the State        | : | Mr. Raj Ballabh Singh, APP                              |
| For the O.P. No. 2   | : | Mr. Indrajit Kumar, Advocate                            |

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

**Date : 29-04-2025**

The present Criminal Revision petition has been preferred by the petitioner-husband against the impugned final order dated 18.09.2019, passed by Principal Judge, Family Court, Munger in Maintenance Case No. 88 of 2016, whereby the petitioner-husband has been directed to pay Rs. 20,000/- per month to the O.P. No. 2/wife towards her maintenance, besides one time payment of Rs. 10,000/- towards litigation cost of the maintenance proceeding.

**2.** LCR is already received.

**3.** The case is at the stage of admission.



4. I heard the parties.

5. Learned counsel for the petitioner is challenging the impugned order on two grounds; firstly the O.P. No. 2 - wife has no reason to live separately and secondly, the learned Court below has not determined the income of the petitioner before directing the petitioner to give Rs. 20,000/- per month to his wife (O.P. No. 2 herein) towards her maintenance.

6. However, learned counsel for the O.P. No. 2/wife defends the impugned order submitting that there is no illegality or infirmity in it. On account of refusal by the petitioner-husband to keep the O.P. No. 2/wife in his matrimonial home, she is restrained to live at her *maike* and she has no source of income and hence, she is entitled to get maintenance as directed by learned Court below by the impugned order.

7. I considered the submissions advanced by the parties and perused the materials on record.

8. I find that the learned Court below while deciding the quantum of compensation, has not referred to any evidence regarding income of the petitioner-husband and has directed the petitioner-husband to pay Rs. 20,000/- per month to his wife towards maintenance without assessing the income of the petitioner.



9. I further find that neither of the parties has filed any affidavit on record in regard to their income as is mandate of **Rajnesh vs. Neha** as reported in **(2021) 2 SCC 324**. Hence, the impugned order is set aside and matter is remanded to the Court below to decide the matter afresh, inviting the affidavit from both the parties regarding their income and taking other evidence on record before deciding the maintenance petition.

10. However, this order of remand is subject to the condition that the petitioner will pay interim maintenance to his wife (O.P. No. 2 herein) @ Rs. 10,000/- per month since the date of filing of the Maintenance petition i.e. 28.07.2016. The total arrears of the interim maintenance will be payable in three equal monthly installments starting from May, 2025.

11. It is clarified that if any amount has been paid by the petitioner-husband to his wife towards interim maintenance as directed by learned Family Court in Matrimonial Case No. 64 of 2015, the same shall be adjusted against the arrears of the interim maintenance amount.

12. Accordingly, the present petition stands disposed of, remanding the matter to the Court below.

13. LCR be sent back to the concerned Court below forthwith along with a copy of this order.



14. Learned Family Court is requested to conduct reconciliation proceeding between the parties to settle their disputes amicably, failing which, the Family Court should expedite this maintenance proceeding as well as the Matrimonial Case No. 64 of 2015 and decide them on the same day.

(Jitendra Kumar, J)

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