

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.683 of 2024

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

Navneet Kumar, Son Of Madan Murari Chaudhary Village- Jatmalpur P.S.-
Kalyanpur, District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Nutan Kumari, Wife Of Navneet Kumar, Daughter Of Umesh Chaudhary
Village- Hirpur P.S.- Jandaha, District- Vaishali. Presently Residing At J.B.-
73, Vastu Vihar, Phase-2, P.S.- Industrial Area, Dist.- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Murari Narain Chaudhary, Advocate
For the Respondent/s	:	Mr.Tapeshwar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 5 23-06-2025 1. The petitioner is the husband of the Opposite Party
- No. 2. Admittedly, marriage between the parties were solemnized according to the Hindu rites and customs on 23rd of April, 2017. It is alleged that the wife of the petitioner stayed only for 10 days in her matrimonial home in the year 2017 and thereafter on the plea of higher education, she deserted her husband. Finally, she came to Patna on 29th of October, 2019 and completely renunciated the petitioner according to her own wish and volition.
2. It is the case of the petitioner that the opposite party does not want to continue her marital life with the petitioner. Since she was not refused and neglected to be maintained by her



husband and she has own source of income being a Teacher of a Government School, the Trial Court refused to pay any maintenance to the Opposite Party No. 2. The opposite Party No. 2 has not preferred any revision against the said order of rejection of maintenance allowance by the Trial Court in favour of her. Therefore, this part of order remains final.

3. Admittedly, however, the parties have a minor child. She is now aged about 5 years. In her petition under Section 125 of the Cr.P.C., the opposite party herself demanded Rs. 5,000/- per month towards maintenance of the aforesaid child. The Trial Court granted maintenance allowance @ 10,000/- per month to the minor child of the parties.

4. The learned Advocate on behalf of the petitioner has joined the issue at this juncture, submitting, inter alia, that when the opposite party wanted Rs. 5,000/- per moth towards maintenance of her daughter, the Trial Court committed an illegality in granting maintenance allowance @ 10,000/- per month without ascertaining the expenditure incurred for the said minor daughter by the opposite party.

5. The learned Advocate on behalf of the opposite party, on the other hand, practically did not raise any voice of protest against such submission made by the learned Advocate



for the petitioner.

6. This Court is not unmindful to note that in a proceeding under Section 125 of the Cr.P.C., the Trial Court can grant maintenance allowance even above the rate on which it was claimed considering the evidence on record.

7. In the instant case, the opposite party did not lead specific evidence regarding the needs of her minor child.

8. On the contrary, this Court finds that it is the duty of both the parties to maintain their minor child. It is needless to say that there may be separation between husband and wife but there is no law in the world that separates the parents from their children. Therefore, it is the obligation of both the petitioner and the opposite party to maintain their minor child. It is not in dispute that the opposite party is a Government Teacher by profession. She also earns handsome salary. She also has equal responsibility to maintain her child.

9. For the reasons stated above and in the absence of any evidence that the minor child needs more than Rs. 5,000/- per month which was actually prayed by the opposite party in her petition under Section 125 of the Cr.P.C., the Trial Court committed patent illegality in passing maintenance allowance @ Rs. 10,000/- per month for the minor child of the opposite party.



10. Accordingly, the order passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Maintenance Case No. 6 of 2020 is modified and the petitioner is directed to pay maintenance allowance in favour of the minor child of the opposite party @ Rs. 5,000 per month till her attainment of majority..

11. The instant revision is, thus, disposed of with the above modification.

(Bibek Chaudhuri, J)

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