

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.695 of 2024

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

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Deepak Kumar @ Deepak Thakur, son of Late Nawal Kishore Thakur,
Village- Buchauli urf Paranpur PS- Bochaha Dist- Muzaffarpur Bihar At P/A-
Bhagwanpur, Yadavnagar, Ps- Muzaffarpur sadar, Dist- Muzaffarpur

... .. Petitioner/s

Versus

1. Bharti Kumari, Wife of Mr. Deepak Kumar @ Deepak Thakur, village Naga Road PS -Raxaul District- East Champaran
2. Aditya Kumar, son of Deepak Kumar @ Deepak Thakur, village Naga Road PS -Raxaul District- East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Preety Kunwar, Advocate
For the Respondent/s : Mr.Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 02-04-2025 1. Opposite Party No. 1 is the wife of the petitioner and Opposite Party No. 2 is the minor son of the parties. The Opposite Party No. 1 / wife filed an application under Section 125 of the Cr.P.C., which was registered as Maintenance Case No. 13 of 2016 before the Learned Principal Judge, Family Court, East Champaran, Motihari. The said application was disposed of by the Learned Principal Judge on 1st May, 2024, directing the present petitioner/husband to pay a sum of Rs.



5,000/- per month in favour of the wife and Rs. 3,000/- per month to the minor son of the petitioner as maintenance allowance from the date of the filing of the application under Section 125 of the Cr.P.C. i.e., on 7th of January, 2016.

2. Learned Advocate for the petitioner takes me to Paragraph No. 14 of the impugned judgment, which runs thus:-

“From the evidence on record of the case it transpires that the petitioner has no/any independent source of income and as per the deposition of petitioner and her witnesses, the opposite party is employed in Medanta Hospital, Gurgaon, New Delhi as a technician and earns Rs. 30,000/- per month and apart from that he has 5 bigha agricultural land from which he earns Rs.2,00,000/- per annum. Therefore, the petitioner is entitled for maintenance and it only remains to be decided as to what amount of maintenance to be given by the opposite party to the petitioner. The petitioner has not produced any proof regarding the income of the opposite party.”

3. Thus, the Trial Court held that the present petitioner earns Rs. 30,000/- per month as a technician at Medanta Hospital, Gurgaon, New Delhi and he has also landed property from where he earns Rs. 2,00,000/- per annum. On the contrary, the O. P. No. 1 has no source of income.

3. It is submitted the learned counsel for the



petitioner that the petitioner is neither a technician at hospital nor he earns Rs. 30,000 per month. The petitioner is a ward boy in the said hospital and during 2016, he used to earn Rs. 5,000/- as salary and at present, his salary is increased to Rs. 18,000.

4. It is contended by the learned Advocate for the petitioner that the application under Section 125 of the Cr.P.C. was disposed of on 1st of May, 2024, without giving any opportunity to the petitioner to file affidavits of assets and liabilities as per the direction of the Hon'ble Supreme Court in ***Rajnish v. Neha*** reported in ***2021 (2) SCC324***. The Trial Judge accepted the averments made by the O.P. No. 1 regarding income of the petitioner without verifying any document and giving opportunity to the petitioner to file affidavits of assets and liabilities.

5. Presently, filing of affidavits of assets and liabilities by the parties to a proceeding under Section 125 of the Cr.P.C. has been made obligatory because such affidavit will enable the Court to come to a specific finding with regard to the income and liability of the parties.

6. Learned Trial Judge has failed to dispose of the Maintenance Case No. 13 of 2016, considering the affidavits of assets and liabilities, required to be submitted by both the



parties.

7. For the reasons aforesaid, I have no other alternative but to set aside the impugned order passed in Maintenance Case No. 13 of 2016, dated 1st of May, 2024, with a direction to the learned Trial Judge to call for affidavits of assets and liabilities from both the parties to the proceedings which are to be filed within one month from the date of the order to be passed by the learned Trial Judge. On the basis of affidavits of assets and liabilities, the learned Trial Judge shall re-hear the issue and fix the maintenance allowance to be paid in favour of the O.P. No. 1 and 2 by the petitioner.

8. In the meantime, in order to protect the opposite parties from starvation, the petitioner is directed to go on paying Rs. 5,000/- per month towards maintenance for the opposite parties without prejudice to the rights and contentions that may be raised by the respective parties in the Trial Court.

9. The trial court shall dispose of Maintenance Case No. 13 of 2016 within three months from the date of communication of the order in accordance with law without being influenced by any observation made in this order while disposing of the instant criminal revision.

10. The instant application stands disposed of,



accordingly.

(Bibek Chaudhuri, J)

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