

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.729 of 2024

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

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Rakesh Roshan, Son of Sashidhar Thakur, R/o -Mauzampur, PO- Mahgaon,
PS- Kharagpur, Distt.- Munger

... .. Petitioner/s

Versus

Komal Bharti, D/O- Munna Thakur, R/O Indupur Barhaiya , p.s - Barhaiya ,
P.O -Barhaiya, district - Lakhisarai , at present resides at village - Sandalpur,
P.S - Kasim bazar , District -Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uday Bhan Singh, Advocate Ms.Kumari Shreya, Advocate
For the Respondent/s	:	Mr.Binay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 29-07-2025 An order dated 1st of July, 2024 passed in Maintenance Case No. 45 of 2023 by the learned Principal Judge, Family Court, Munger is under challenged in the instant criminal revision by the petitioner / husband on the ground of awarding interim maintenance at an excessive rate beyond the prayer made by the opposite party / wife. Though the opposite party / wife prayed for interim maintenance at the rate of Rs. 10,000/-, the learned Principal Judge passed an order of interim maintenance payable by the petitioner at the rate of Rs. 30,000/- per month.

2. The issue which arises for consideration before this Court is as to whether the learned Principal Judge, Family Court



at Munger has failed to exercise his jurisdiction while granting interim maintenance three times higher than what was prayed by the present opposite party / wife.

3. It is not in dispute that marriage of the opposite party was solemnized in a local temple on 28th of February, 2023. She stayed at her matrimonial home till 17th of April, 2023 i.e., for 1 month and 18 days only. On 17th of April, 2023, she lodged a complaint before the concerned police station resulting in a registration of an FIR Case 106 of 2023 for the offence punishable under Section 498A and 3 / 4 of the Dowry Prohibition Act. Subsequently, the instant proceeding was filed under Section 125 of the Cr.P.C.

4. It is stated by the Opposite Party in her application under Section 125 of the Cr.P.C. that the petitioner is an employee of IOCL, Haldiya, West Bengal, drawing monthly salary of Rs. 1 Lakh and 25 thousand. By filing a separate petition, the opposite party claimed interim maintenance at the rate of Rs. 10,000/- per month.

5. I have already stated that the Trial Court passed an order directing the petitioner to pay interim maintenance at the rate of Rs. 30,000/- per month to Opposite Party.

6. On perusal of the impugned order, it is found that



the Trial Court relied on the following decisions of the Hon'ble Supreme Court:-

(i) ***Rajnesh v Neha*** reported in **2021 2 SCC 324**

(ii) ***Manish Jain v Akanksha Jain*** reported in **2017 15 SCC 801**

(iii) ***Reema Salkan v Sumer Singh Salkan*** reported in **2019 12 SCC 303**

(iv) ***Chaturbhuj v Sita Bai*** reported in **2008 2 SCC 316**

7. It is needless to say that all the above-mentioned reports deal with different aspects of consideration of the amount payable by the husband to the wife as final maintenance.

8. ***Rajnish*** (supra) also speaks of the principles to be followed by the Trial Court when several applications under various provisions of law are filed by the wife for maintenance.

9. For instance, a wife can file an application for maintenance under Section 125 of the Cr.P.C.;

She can file an application under the Protection of Women against Domestic Violence Act;

Applications can also be filed for alimony pendente lite and permanent alimony under the Hindu Marriage Act;



Again maintenance can also be prayed for under the provision of Hindu Adoptions and Maintenance Act.

10. It is held in ***Rajnish*** (supra) that the provisions of maintenance in different statutes are supplementary to each other and not in derogation to other statute.

11. ***Rajnish*** (supra) also states that in order to decide the quantum of maintenance, the parties shall file affidavit of assets and liabilities.

12. Considering both the assets and liabilities by both the parties, the Court while considering the amount of maintenance only because in ***Kalyan Dey Chowdhury vs Rita Dey Chowdhury Nee Nandy*** reported in ***AIR 2017 SC 2383***, the Hon'ble Supreme Court held that the wife is entitled to get maintenance at the rate of 25 per cent of the salary of the husband. Such order can only be passed at the final stage taking into account not only the income but the liability of the husband.

13. When the wife/opposite party submits, by filing an application, that a sum of Rs. 10,000/- would be sufficient for her towards interim maintenance, this Court fails to understand how the principles laid down by the Hon'ble Supreme Court were wrongly applied at the interim stage. The learned Trial Judge has granted interim maintenance at an enhanced rate of



Rs. 30,000/-.

14. For the reasons stated above, this Court is of the view that the impugned order dated 1st of July, 2024 passed in Maintenance Case No. 45 of 2023 is liable to set aside.

15. Accordingly, the instant revision is allowed.

16. The petitioner is directed to pay interim maintenance at the rate of Rs. 10,000/- per month to the opposite party / wife from the month of July, 2024 within 10th of each succeeding English calendar month.

17. Payment of arrear amount of interim maintenance shall be made by ten equal installments.

(Bibek Chaudhuri, J)

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