

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.628 of 2023

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

Habibur Rahman, Son of Ataur Rahman, Permanent R/o vill - Sipauliya, P.O. - Shahpur, P.S. - Jalley, Distt. - Darbhanga. At present R/o Maharashtra Nagar No. 1, Slaughter House Compound, Behind Bus Depot, Bandra, P.S - Bandra, Distt. - West Mumbai, Maharashtra

... .. Petitioner/s

Versus

1. The State of Bihar
2. Fatma Farheen D/o Md. Mustaqueem @ Raza R/o vill - Sipauliya, P.O. - Shahpur, P.S. - Jalley, Distt. - Darbhanga, At present vill - Dewari, P.O. - Bandhauli, P.S. - Jalley, Distt. - Darbhanga
3. Saleha Munazza D/o Habibur Rahman R/o vill - Sipauliya, P.O. - Shahpur, P.S. - Jalley, Distt. - Darbhanga, At present vill - Dewari, P.O. - Bandhauli, P.S. - Jalley, Distt. - Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Baidya Nath Prasad
For the Respondent/s : Mr. Harendra Prasad

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 22-04-2025 1. The instant revision is directed against the order dated 01.02.2023, passed in Maintenance Case No. 67 of 2016 by the Learned Principal Judge, Family Court, Darbhanga, whereby and whereunder the Learned Principal Judge directed the Petitioner to pay Rs. 9000/- per month as maintenance allowance to the Opposite Party No. 3 till she gets married, from the date of filing of the case.

2. The Opposite Party No. 2 filed a case under Section 125 Cr.P.C. for maintenance of her minor daughter, Opposite Party No. 3 herein (now a major), alleging, inter alia, that



Opposite Party No. 2 was married to the Petitioner on 16.03.2001 as per Muslim Law and Shariat and after marriage she gave birth to a girl child from the said wedlock on 03.02.2002. Thereafter, she went to Mumbai with the Petitioner in the year 2008 and after that Petitioner and his family members started demanding Rs. 50,000/- as dowry and when Opposite Party No. 2 along with her family failed to fulfill their demand, they started torturing her by different means. So, the Opposite Party No. 2 made a complaint against the petitioner and his other family members in Nirmal Nagar Police Station, Mumbai.

3. The opposite party no. 2 further alleged that after being tortured by the petitioner and his family members, she had taken Khula (Divorce) from Amartai Sariya, Pune from the petitioner and since then she has been living at her paternal home with her minor child (Opposite Party No. 3) but the petitioner has not given any penny for her maintenance and she has no source of income, whereas the petitioner earns Rs. 1,50,000/- (One Lacks fifty thousand) per month and he has also landed property as well as building in Mumbai from which petitioner gets rent per month. Hence, she required at least Rs. 15,000/- per month for maintenance and education of her minor



child, i.e., opposite party no. 3.

4. The Petitioner, on the other hand, refutes the allegations of the Opp. Party No. 2 about him not maintaining his child i.e. Opp. Party no. 3 and also said that he is not a travel agent rather he is doing a private job in Mumbai and earns only Rs. 10,000/- to Rs. 15,000/- per month and also stated that the he is ready to keep Opposite Party Nos. 2 and 3 with all honour and dignity as per his capacity.

5. it is submitted by the learned Advocate appearing on behalf of the petitioner that the trial court without considering any document or evidence on record, held that the petitioner had sufficient income to pay maintenance to the Opposite Party No. 3 at the rate of Rs. 9,000/- per month.

6. For adjudication of the issue as to whether the petitioner had sufficient means to maintain the Opposite Party No. 3, this Court feels necessary to reproduce Paragraph No. 17 of the impugned judgement where the learned trial judge assessed the quantum of maintenance: -

“17. No document regarding working of the Opposite Party as Traveling agent for issue VISA in Mumbai as stated produced on behalf of the applicants.

The Opposite Party has



admitted in his evidence that he earns Rs. 10,000/- to Rs. 15,000/- per month in Mumbai. Mumbai is the industrial city, the earnings of the opposite party Rs. 10,000/- to Rs. 15,000/- per month is not believable. The applicant No. 1 and the remaining witnesses on behalf of the applicant have stated that Opposite party is a Traveling agent for issuing VISA in Mumbai whereby he has income of Rs. 1.5 lakh per month. Besides the above he has land and building. From the above evidence it is clear that the Opposite party having sufficient means neglected to provide maintenance to the applicant No. 2 Saleha Munzza, minor daughter of the applicant No. 1/mother and opposite party.”

7. A bare reading of the above-mentioned paragraph shows that finding of the court below is based on presumption and assumption without even considering the law of presumption enunciated in various provisions of the Indian Evidence Act. In support of finding made by the Trial Court, admittedly no supportive document was placed before it.

8. However, it is not denied that the petitioner works in Mumbai. He is an able person capable to earn money to maintain his own unmarried girl child till her marriage.



9. At the same time, this Court is not unmindful to note that the Opposite Parties failed to produce any document in support of monthly income of the petitioner.

10. Under such backdrop and taking into consideration minimum need of a girl of 21 years, this Court is of the view that the petitioner is under legal and moral obligation to pay Rs. 6,000/- per month in favour of the Opposite Party No. 3 from the date of filing of the application under Section 125 of the Cr.P.C. Thus, the quantum of maintenance is modified to Rs. 6,000/- per month to be paid by the petitioner to Opposite Party No. 3.

11. With such modification, the instant Revision Application stands disposed of.

(Bibek Chaudhuri, J)

skm/-

U			
---	--	--	--

