

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.746 of 2024

In
Miscellaneous Appeal No.192 of 2019

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

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Syed Kalimullah @ Saiyad Kalimullah S/O Azizur Rahman R/O Village-
Mohammadpur, P.S- Bhagwanpur Hatt, Distt.- Siwan (Bihar).

... .. Petitioner/s

Versus

Ruksana Khatoon W/O Syed Kalimullah, D/O Md. Saleem R/O Village-
Mohammadpur, P.S- Bhagwanpur Hatt, Distt.- Siwan (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar Shrivastawa, Advocate
For the Respondent/s : Mr. Mohit Shrivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 12-02-2025 The instant revision is directed against an order of

maintenance passed by the learned Principal Judge, Family

Court, Saran at Chapra on 17.07.2018 in Maintenance Case

No.124 of 2008 directing the petitioner to pay maintenance

allowance at the rate of 6000/- per month to the opposite

party/wife from the date of the order.

2. The petitioner/husband has challenged in the instant

Criminal Revision, the amount of maintenance directed to be

paid in favour of the opposite party on the ground that he is a

daily wage earner and he does not earn sufficient income so that



he could pay a sum of Rs.6000/- in favour of the opposite party/wife.

3. Before dealing with the submissions made by the learned Advocates on behalf of the parties, let me state that *vide* order dated 17.01.2025, the petitioner was directed to make payment of at least 50% of the arrear maintenance allowance, pending disposal of the instant revision. Today, the learned Advocate for the petitioner has paid two demand drafts amounting to Rs.20,000/- and Rs.80,000/-, total being Rs.1,00,000/- in the name of the opposite party and submits that as on this date, a sum of Rs.5,40,000/- is due towards arrear maintenance, 50% of the said amount is Rs.2,70,000/-. The petitioner has already deposited Rs.1,08,000/- in the Trial Court and the order sheet in the Trial Court reflects the same. Today, the petitioner is going to deposit Rs.1,00,000/- thus, as on this date the petitioner has deposited a sum of Rs.2,08,000/- towards arrear maintenance and a sum of Rs.62,000/- remains due being 50% of the arrear of maintenance.

4. It is next submitted by the learned counsel for the petitioner that some more time may be granted to the petitioner for making payment of the rest amount of Rs.62,000/-.

5. It is needless to say that the sum of Rs.2,70,000/- is



50% of the total arrear of maintenance. The petitioner is required to pay the entire arrear maintenance for which, the opposite party is entitled to file an execution case in accordance with law, as provided under Cr.P.C. The Revisional Court cannot be used as a tool to realize arrear maintenance allowance, specially when the petitioner has challenged the impugned order of maintenance directing him to pay at the rate of Rs.6000/- per month.

6. It is not in dispute that the opposite party is the legally married wife of the petitioner. It is also not in dispute that the opposite party has been staying at her paternal home and it is alleged that the petitioner treated her with cruelty and drove her away from his house. Therefore, the opposite party was compelled to take shelter at her paternal home. The opposite party, as petitioner in the Trial Court has stated in her evidence that the petitioner is a contractor at Bhagwanpur Hat market. He has also a cloth shop and his total monthly earning is Rs.30,000/- to Rs.40,000/-. In support of the opposite party/petitioner in the Trial Court, her paternal family members viz. her brother, her mother, neighbor and the daughter of the opposite party led evidence and all of them stated on oath that the petitioner earns Rs.30,000/- to Rs.40,000/- per month.



During the trial of the case, PW-4 was not crossing summit on behalf of the petitioner. The petitioner did not lead any evidence, as such the evidence adduced on behalf of the opposite party remains un-controverted and on the basis of un-controverted evidence, the Trial Court fixed the maintenance allowance. Except oral submission that the petitioner is a daily wage labourer, nothing has been produced in the instant proceeding before this Court to show that the petitioner earns less than what has been claimed on behalf of the opposite party.

7. In view of such circumstances, this Court found that the petitioner has financial capacity to pay Rs.6000-7000 per month towards maintenance to the opposite party. The learned Trial Court passed the impugned judgment on careful consideration of evidence. There is no illegality or material irregularity in the impugned order. Accordingly, the instant Criminal Revision is dismissed on contest. However, there shall be no order as to costs.

8. The petitioner is directed to go on paying/depositing the current maintenance allowance, as per the direction of the Trial Court along with arrear maintenance. The Lower Court records be returned to the Court below. It is made clear that in case of arrear maintenance, the opposite party is at



liberty to file execution case in the Trial Court and no criminal revision shall lie for realization of arrear or current maintenance made under revisional jurisdiction.

(Bibek Chaudhuri, J)

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