

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.902 of 2024

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

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Mukesh Kumar Ram, S/o- Bhagrasan Ram, Village- Akil Tola, P.S. Maharaj Ganj, Siwan. At present posted as Clerk in Punjab National Bank, Branch Maharajganj Dist- Siwan

... .. Petitioner/s

Versus

1. Khushboo Kumari, W/o- Mukesh Kumar Ram, Village- Akil Tola, P.S. Maharaj Ganj, Siwan. At present Village- Tarwara, P.S- G.B.Nagar, Dist- Siwan
2. Aryan Kumar Mukesh Kumar Ram Minor under the guardianship of mother Khushboo Kumari Village- Akil Tola, P.S. Maharaj Ganj, Siwan. At present Village- Tarwara, P.S- G.B.Nagar, Dist- Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Singh, Advocate
For the Respondent/s : Mr.Shivajee Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 21-04-2025 This is an application under Section 19(4) of the Family Court Act filed by the husband/petitioner assailing the quantum of maintenance granted by the Trial Court in Maintenance Case No. 145 of 2019 vide order dated 4th of October, 2023.

2. On perusal of the instant application as well as the materials on record, the following undisputed facts and circumstances are revealed:-

(i) The Opposite Party No. 1 is the legally married wife of the petitioner and their marriage was solemnized on 28th of April, 2016;



(ii) In the wedlock between the petitioner and the Opposite Party No. 1, a male child was born who is now 7 years old;

(iii) The Opposite Party No. 1 and the minor child of the parties are living separately from the petitioner on the allegation that she and her son were driven away by the present petitioner from her matrimonial home when the Opposite Party No. 1 failed to satisfy the demand of the petitioner for an Alto Car;

(iv) Indisputably, the petitioner is working in Punjab National Bank as a Clerk.

3. The maintenance case was contested by both the parties in the Trial Court and the learned Principal Judge, Family Court at Siwan, passed an order directing the petitioner / husband to pay Rs. 14,000/- per month for maintenance to his wife and his son on or before 10th of every calendar month till the son attains the majority or self-dependency, which is exclusive of any payment of interim or final maintenance amount by the present petitioner to the Opposite Party No. 1 in any other proceeding.

4. The said order is challenged on behalf of the petitioner on the ground that on the date of passing of the order



by the learned Principal Judge, Family Court on 4th of October 2023, the petitioner was used to getting Rs. 42,512/- as his gross salary. The statutory deduction of the provident fund and TDS amounted to Rs. 7,695/-, so the net salary of the petitioner was Rs. 34,817/-. The Trial Court granted Rs. 14,000/- per month towards maintenance on the basis of the following observation made in Paragraph No. 16 of the impugned order which is quoted below:-

“16. Now, the question is what should be the quantum of maintenance? In the light of Rajnesh Vs. Neha the OP has filed his pay slip though the pay slip is of 09th month of 2022 wherein his basic pay is shown as Rs. 30,550/-, DA is 11,962/- = Rs. 42,512/- deducting the statutory deduction (Provident Fund Rs. 4445/- + TDS Rs. 3250/- = Rs. 7695/-) Thus, the income of the petitioner is Rs. 42,512/- - Rs. 7,695/- = Rs. 34,817/- per month for the purpose of section 125 Cr.P.C and in the light of judgement passed in Kulbhushan Kumar vs. Raj Kumari and Others (1970) 3 SCC 129 Nitin Sharma and Others vs. Sunita Sharma & Others (2021 III AD (Delhi) 210), Seema & Anr. Vs. Gourav Juneja, the basic salary plus DA has to be added and the statutory deductions has to be deducted from total of (basic salary plus DA) and the rest is the income of the OP which has to be divided as two shares for the



*OP, one share for each of the dependent. The OP has stated that his father, mother and brothers are dependent upon him. **Therefore, the assessed income of the OP i.e. Rs. 34,817/- is divided into fifth parts** as two share should go to the OP who is earning the money and one share to the petitioner and one share to the petitioner No.- 2. Thus, the share of the petitioners comes to Rs. 6,963/- + Rs. 6,963/- = 13,926/-. Considering this calculation is based upon pay slip for the year 2022 and presently the year 2023 is going on the calculated share of the petitioners is rounded of to Rs. 14,000/-. Accordingly, **Rs. 14,000/-** per month seems to be a just and reasonable amount for maintenance of the petitioners by the OP.”*

5. It is submitted by the learned Advocate for the petitioner that the petitioner was directed to make payment of maintenance amount at the rate of Rs. 14,000/- since the date of filing of the application, i.e., 8th of August, 2019. In 2019, the gross salary was not Rs. 42,512/-. It is approximately Rs. 30,000/- per month. The learned Trial Judge failed to assess the income of the petitioner in the years 2019 to 2022. When the petitioner used to receive a lower salary from his employer. Without considering such income, the petitioner was directed to pay Rs. 14,000/- per month towards maintenance allowance.

6. The learned Advocate for the opposite parties, on



the other hand, submits that the opposite parties are entitled to get approximately Rs. 17,000/- per month, but the Court below wrongly directed the petitioner to pay Rs. 14,000/- per month. As such, the quantum of maintenance ought to be enhanced by this Court.

7. I have carefully perused the impugned order. Paragraph No. 16 of the impugned order is quoted hereinabove. It appears to this Court that the opposite parties failed to understand the purport of the impugned order. So far as the calculation of the maintenance amount on the basis of the monthly income of the petitioner is concerned, learned Principal Judge rightly arrived at his conclusion.

8. Next comes the question raised by the learned Advocate for the petitioner regarding quantum of arrear maintenance from the date of filing of the application on the ground that on the date of filing of the application, the gross salary of the petitioner was not Rs. 42,512/-. It was much less than the said amount. The trial Court did not consider the said fact and directed him to pay maintenance allowance at the rate of Rs. 14,000/- per month.

9. On perusal of the impugned order, I find that the Trial Court passed the order on the basis of a salary-slip for the



month of September, 2022. Obviously, salary of the petitioner was less in 2019 in comparison to the salary which he used to get in 2023. At the same time, the Court is unmindful to note that in 2025, the salary of the petitioner is enhanced. This Court does not consider the enhanced salary of the petitioner to grant maintenance allowance at enhanced rate. The learned Trial Judge passed an order of maintenance at the rate of Rs. 14,000/- per month from the date of application, taking into account of average income of the petitioner, including the enhanced salary which he got in the year 2024 and has been getting in 2025.

10. Therefore, I also do not find any reason to interfere with the order relating to quantum of maintenance.

11. The instant revision is, accordingly, dismissed on contest.

(Bibek Chaudhuri, J)

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