

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.951 of 2024

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

Ikrar @ Mohammad Ekrar Son of Rajabul @ Mohammad Rajabul village-
Ward no. 9, Miyan Tola, Sonapur, Ps- Narpatganj, Dist- Araria

... .. Petitioner/s

Versus

1. Bibi Najreen Praveen @ Bibi Najveen wife of Mohammad Ekrar village-
Rampur Dakshin, Ward no. 12, Ps- Forbesganj, dist- Araria
2. Md. Aamir son of Mohammad Ekrar Residing with the mother Bibi Najreen
Praveen

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dheeraj Kumar, Advocate
For the Respondent/s : Mr. Gopal Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 16-07-2025 The petitioner is the husband of the opposite party

no.1. The opposite party no.2 is a minor child of the parties.

2. The petitioner has challenged the legality, validity and propriety of the order dated 25.07.2024 passed by the learned Principal Judge, Family Court, Araria in Maintenance Case No. 160 of 2021 directing the petitioner to pay maintenance at the rate of Rs. 5000/- per month to the opposite party no.1 and Rs. 1000/- per month to the opposite party no.2 from the date of filing of the petition, total being Rs. 6000/- per month. It is not disputed that the petitioner did not pay any single farthing to the opposite parties till date.

3. It appears from the impugned order that the petitioner appeared in the Trial Court on 15.07.2022 and filed



his written objection on 15.10.2022. Evidence on behalf of the opposite parties/wife and child was concluded on 29.01.2024 and date was fixed for recording the evidence on behalf of the opposite party. However, the opposite party/ petitioner herein did not appear to adduce the evidence in support of his case and the Trial Court compelled to conclude the trial on 25.04.2023. On 05.07.2024, the opposite party no.2 filed affidavit of assets and liabilities, but the present petitioner did not file any affidavit of assets and liabilities during trial of the case. Therefore, the Trial court Court fixed 08.07.2024 for hearing of argument and impugned judgment was delivered on 25.07.2024.

4. It is submitted by the learned Advocate for the petitioner referring to the application for show-cause/written objection filed by the present petitioner in the Trial Court that from the very beginning of marriage, there was some dispute between the parties because the petitioner used to reside in Jaipur in the State of Rajasthan for his work. In Paragraph No.3 of the said written objection, it was stated by the petitioner that his matrimonial relations were putting pressure to keep his wife separately from his paternal home. They also put pressure upon him to transfer 4 kattas of land in favour of the opposite party. The opposite party thereafter left her matrimonial home on her



own accord with petitioner's money amounting to Rs. 2,50,000/- and ornaments. The petitioner tried to settle the dispute between the parties, but the opposite party no.2 did not want to settle the dispute. It is further contended on behalf of the petitioner that he is a daily wage earner in Jaipur. His financial position is not affluent to pay Rs. 6000/- per month in favour of the opposite party no.2, therefore, the petitioner has prayed for modification of the order passed by the learned Principal Judge, Araria in Maintenance Case No. 160 of 2021 by allowing the instant revision.

5. The learned Advocate on behalf of the opposite parties on the other hand submits that the opposite party no.2 filed a case under Section 498(A)/ 341/342/323/313/504/506 of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act, 1961 against the petitioner. The petitioner approached this Court for bail by filing Criminal Miscellaneous No. 63075 of 2024. The said application for bail was disposed of vide order dated 12.09.2024 by a Coordinate Bench with a direction to the Trial Court to verify before the date of his surrender for obtaining anticipatory bail, as to whether the petitioner had paid amount of Rs. 1,30,000/- to the opposite party no.2 towards arrear maintenance. The petitioner was



further directed to pay maintenance amount of Rs. 6000/- to the opposite party nos.2 and 3. However, the said order dated 12.09.2024 was not complied with by the petitioner.

6. The learned Advocate for the petitioner submits that violation of any condition for anticipatory bail by the petitioner may result in cancellation of bail, but the said order will not affect the impugned order passed by the Trial Court. The Trial Court passed the order without any material as to the income of the petitioner. Therefore, the said order is liable to be set aside.

7. It is found from the impugned order that the petitioner did not file his affidavit of assets and liabilities during trial of the maintenance case. Without filing affidavits of assets and liabilities, he cannot now claim that he is not financially stable to pay the maintenance allowance. It appears from the lower Court record that the petitioner during the trial of the case failed to appear before the Trial Court so his evidence was closed and the Trial Court proceeded to deliver judgment.

8. It is not in dispute that the petitioner works in Jaipur. Since he has not produced any document as to his income, this Court is at liberty to assess his income on the basis of the rate of wages under the Minimum Wages Act, 1948.



Taking such view of the matter, this Court can certainly hold that the monthly income of the petitioner would be Rs. 15000/- per month. One-third of such income comes to Rs. 5000/- per month. In addition to it, the petition has legal and moral responsibility to maintain his child for whom the Trial Court granted only Rs. 1000/- per month.

9. Considering the status of the parties and the amount of maintenance granted to the opposite parties, I do not find any illegality or material irregularity in the order. Accordingly, the instant revision is dismissed. On contest, the petitioner is directed to comply with order passed by the Trial Court. If such order is not maintained, the Trial Court is at liberty to take appropriate action against the petitioner in accordance with law.

(Bibek Chaudhuri, J)

Anushka/-

U			
---	--	--	--

