

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.758 of 2023

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

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Mehilal Verma @ Mehilal S/O Late Dukh Devan Verma R/O Village-
Sarifaganj, Ps.Malsalami,Dist. Patna.

... .. Petitioner/S

Versus

Suchitra Devi W/O Mehilal Verma, D/O Late Sudeshwar Mahto R/O Village-
Ajma, P.O.- Ajma, Ps. Naubatpur, Dist. Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Mritunjay, Adv., Mr. Pankaj Kumar Sinha, Adv.
For the O.P	:	Mr. Ashok Kumar Singh, Adv., Mr. Dhananjay Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

11 30-04-2025 The petitioner is a retired employee of Railways.

Indisputably, marriage of the petitioner was solemnized with the opposite party in the year 1975. It is also not disputed that in the said wedlock between the petitioner and opposite party, two children were born and both the children of the parties were given marriage.

2. It is contended on behalf of the opposite party that the opposite party use to live in the native village of the petitioner with her children and the petitioner use to stay at his place of work. The opposite party further alleged that during subsistence of her marriage with the petitioner, the petitioner solemnized second marriage with another lady and he has been



residing elsewhere with his second wife. As the petitioner refused and neglected to maintain the opposite party, she was compelled to file an application under Section 125 of the Cr.P.C., claiming maintenance being Maintenance Case No. 80(M) of 2012 for maintenance. The said case was disposed of by an order dated 11th July, 2023, passed by the learned Additional Principal Judge, Family Court, Patna, directing the petitioner to pay maintenance @ Rs. 10,000/- per month. The said order is under challenge in the instant proceeding under Section 19(4) of the Family Courts Act.

3. Only on the point of quantum of maintenance, it is contended by the petitioner that he retired from service in the year 2020 and at present he is getting pension of Rs. 17,500/-. Therefore, the petitioner shall face hardship to pay Rs. 10,000/- per month to the opposite party towards maintenance.

4. The instant criminal revision was heard on 29th April, 2025 and the learned Advocate for the petitioner was directed to produce the photostat copy of the Bank statement, showing present pension of the petitioner. The learned Advocate for the petitioner has deposited the said document, on perusal of which, this Court finds that the petitioner gets Rs. 20,125/- towards pension. The said amount was credited to his Bank on



28th April, 2025.

5. It is also submitted by the learned Advocate on behalf of the petitioner that out of the pension amount, the petitioner requires to pay E.M.I. @ Rs. 5101/- per month towards payment of personal loan, which was taken by the petitioner on 14th September, 2021.

6. It is now trite that maintenance amount is payable from the date of application. On the date of application, the petitioner was in service and taking into consideration, the amount of pension, the petitioner's salary can be assessed during his service @ Rs. 40,000/- per month approximately.

7. In *Civil Appeal No. 5369 of 2017, Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy*, the Hon'ble Supreme Court by its Judgment dated 19th April, 2017 held following *Dr. Kulbhushan Kumar vs. Raj Kumari & Anr.*, reported in *(1970) 3 SCC 129*, that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent/wife.

8. Taking in the decision of the Hon'ble Supreme Court into consideration, this Court finds that the opposite party is entitled to get Rs. 10,000/- per month, from the date of filing of the application, being 25% of the salary of the petitioner,



which is approximately assessed at Rs. 40,000/- from the date of filing of the application in the year 2012 till the date of retirement in the year 2020. After retirement, the petitioner is under obligation to pay maintenance @ Rs. 5,000/- being 25% of the pension amount.

9. Learned Advocate for the petitioner has strenuously urged that the amount of E.M.I. may be deducted from the pension amount. However, it is held by the Hon'ble Supreme Court as well as different High Courts in plethora of decisions that while computing net salary/pension of the husband, the amount of income tax payable by the husband and the amount of provident fund contribution would be deducted as those are statutory deductions. Other deductions like payment of E.M.I, for repayment of loan or other deductions cannot be deducted from the net income of the petitioner/husband.

10. Therefore, I am not in a position to accept such submission made by the learned Advocate for the petitioner.

11. For the reasons stated above, the quantum of maintenance amount is modified.

12. The petitioner/husband is directed to pay maintenance @ Rs. 10,000/- per month to the opposite party from the date of application till the date of retirement of the



petitioner and thereafter @ Rs. 5,000/- per month within 15th of each succeeding month.

13. The instant criminal revision is thus partly allowed on contest.

14. There shall however be no order as to costs.

(Bibek Chaudhuri, J)

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