

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.775 of 2023

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

Rajnish Raman Son Of Late Suresh Prasad Singh @ Surendra Kumar
Resident Of Village- Karharia, Ps- Bagh, Distt- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Alpana Kumari Daughter Of Anandi Prasad Singh Resident Of Village-
Karanpur, Ps- Shambhuganj, Distt- Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Adv., Mr. Bal Krishna Mishra, Adv.
For O.P. No. 2	:	Mr. Samir Kumar, Adv., Ms. Smriti Singh, Adv.
For the State	:	Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 18-06-2025 The instant criminal revision is directed against an order dated 29th August, 2023, passed by the learned Principal Judge, Family Court, Banka, in Miscellaneous Case No. 56 of 2020, arising out of an application under Section 125 of the Cr.P.C., filed by the opposite party no. 2, directing the petitioner/revisionist to pay maintenance allowance @ Rs. 18,000/- per month to the opposite party no. 2, from the date of filing of the application under Section 125 of the Cr.P.C.

2. The learned trial judge in his impugned order also calculated arrears maintenance allowance to the tune of Rs. 6,84,000/- from the date of filing of the application till the date



of passing of the order and directed the petitioner to pay the arrears maintenance allowance along with the current one. However, no period is specified by the trial court within which arrears maintenance shall be paid by the petitioner to the opposite party no. 2.

3. From the impugned Judgment as well as the application under Section 397 of the Cr.P.C. read with Section 401 of the Cr.P.C., it is found that marriage between the parties were solemnized on 12th March, 2015 according to Hindu rites and customs, in the ancestral village of opposite party no. 2 at Karanpur. After marriage, she came to her matrimonial home to lead conjugal life with the revisionist. However, the nuptial life of the parties were not happy. The wife/opposite party no. 2 claimed that she was physically and mentally tortured and ultimately on 19th January, 2019 the wife was driven away from her matrimonial home in single cloth after taking away all her bridal gifts and dowry articles. Since then she has been residing at her paternal home. It is alleged by the opposite party no. 2 that the petitioner never paid any money for maintenance of his wife, though, he has sufficient means to maintain his wife.

4. The present petitioner being the opposite party of the said maintenance case appeared before the learned Principal



Judge, Family Court at Banka to contest the proceeding under Section 125 of the Cr.P.C. He has filed a written statement denying all the allegations made out against him by the petitioner. It is specifically pleaded by the petitioner/husband that his wife is well educated lady. She has obtained his D.El.Ed degree from a private school and she works in the said private school as a teacher. She has own source of income and, therefore, she is not entitled to any maintenance.

5. The learned trial judge on careful consideration and assessment of evidence on record led by both the parties granted maintenance allowance @ Rs. 18,000/- per month.

6. The said order is under challenge in the instant revision.

7. The learned Advocate for the petitioner has made two fold submissions. First, he submits that the application for maintenance was filed in the year 2020. In the year 2020, the petitioner use to get Rs. 20,000/- as his salary, as a Prakhanda Teacher. Subsequently, he was absorbed as a Government Teacher and his salary was enhanced. On the date of delivery of Judgment, he use to get Rs. 37,466/- towards his salary per month.

8. Now, if the petitioner is directed to pay Rs. 18,000/-



per month from the year 2020, it would be more than 90% of his salary, which would be paid to his wife/opposite party herein. Again, if the petitioner is directed to pay a sum of Rs. 18,000/- per month since 2023, the said amount would be almost 50% of his salary, which he use to get in the year 2023. Therefore, the quantum of maintenance is required to be reviewed considering the salary received by the present petitioner during the year 2020 to 2023.

9. Secondly, It is urged by the learned Advocate for the petitioner that the petitioner took all attempt to stay with his wife peacefully, but the wife/opposite party herein did not agree to stay with the petitioner.

10. Flatly stated, I am not in a position to consider this submission made by the learned Advocate for the petitioner on the ground that the petitioner himself filed a suit for divorce in the year 2018, which was registered as Divorce Suit No. 329 of 2018. Thus, the divorce suit was filed prior to filing of the maintenance case. The said suit is still pending. On one hand, the petitioner through his learned Advocate submits that he is ready and willing to stay with his wife peacefully and amicably and on the other hand, he is proceeding with a suit for divorce against his wife. Both these things cannot run concurrently.



11. Pendency of divorce suit and non-payment of any maintenance allowance till date suggests that the petitioner has refused and neglected to maintain his wife.

12. On 21st April, 2025, this Court passed an order directing the petitioner to pay a sum of Rs. 10,000/- per month without prejudice to the rights and contention of the parties towards maintenance allowance till the disposal of the instant criminal revision, but the said amount has also not been paid by the petitioner. Therefore, the petitioner has no regard even on the order passed by this Court to comply. Therefore, this Court can safely conclude that the petitioner refused and neglected to maintain his wife.

13. At this stage, comes the question of quantum of maintenance. The petitioner has filed a supplementary affidavit stating inter alia that in April, 2021, he use to get Rs. 26,991/-. In December, 2021, he use to get Rs. 30,211/-. In July, 2023, he use to get Rs. 37,466/-. He received 15% salary increment from 1st April, 2021 to December, 2021. Thus, in December, 2021 his salary was Rs. 30,211 + Rs. 4134 = Rs. 34,345/- and in August, 2023, when the Judgment of the trial court was delivered, monthly salary of the petitioner was Rs. 37,466/-. The court below flatly directed the petitioner to pay maintenance



allowance @ Rs. 18,000/- per month.

14. However, in ***Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy***, reported in ***A.I.R. 2017 SC 238***, the Hon'ble Supreme Court referring to its previous Judgment in ***Dr. Kulbhushan Kumar Vs. Raj Kumari & Anr.***, reported in ***(1970) 3 SCC 129***, held that 25% of husband's net salary would be just and proper to be awarded as maintenance to the respondent/wife.

15. In a very recent decision the Hon'ble Supreme Court in ***Rakhi Sadhukhan Vrs. Raja Sadhukhan***, reported in ***2025 SCC online SC 1259***, while dealing with an appeal, arising out of an order passed by the High Court at Kolkata on permanent alimony, observed as follows:-

“7. Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondents/ husband's income, financial disclosures, and past earnings establish that he is in a position to pay a higher amount. The appellant wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoy during the marriage and which reasonably secures her future. Furthermore, the inflationary cost of living and her continued reliance on maintenance



as the sole means of financial support
necessitate a reassessment of the amount.
(emphasis applied by this Court).

16. It is not in dispute that opposite party no. 2 is the wife of a School Teacher, who is having some status in the society. A Teacher is regarded as the instructor and maker of the backbone of the society. Therefore, wife of a Teacher is entitled to stay with dignity and status which she used to have had the marital tie not been broken.

17. Considering all such aspects of the matter and having due regard to the Judgments passed by the Hon'ble Supreme Court as well as the ratio laid down in the aforementioned Judgments, this Court is of the view that the opposite party no. 2 is entitled to get maintenance @ Rs. 12,000/- per month from the date of filing of the application.

18. It is also directed that the amount of maintenance shall be increased by 5% after the lapse of each two years.

19. It is submitted by the learned Advocate for the petitioner that on 5th March, 2025, the petitioner deposited a sum of Rs. 1,50,000/- in the name of opposite party no. 2 towards interim maintenance allowance. The said fact is brought on record.

20. Along with the current maintenance allowance,



the petitioner is directed to deposit the arrears maintenance allowance under the same rate in 20 monthly installments.

21. The instant criminal revision is thus disposed of.

(Bibek Chaudhuri, J)

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