

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.786 of 2023

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

Nitu Singh @ Nitu Kumari Wife Of Prem Kumar Singh, D/O Of Ravindra Singh Resident Of Village- Naukatola Chachopalli, P.O.- Karnpura, P.S.- G.B. Nagar Tarwara, District- Siwan

... .. Petitioner/s

Versus

Prem Kumar Singh Son Of Hare Ram Singh Resident Of Village- Naukatol Chachopalli, P.O.- Karnpura, P.S.- G.B. Nagar Tarwara, District- Siwan. Present Address-C/O Commanding Officer Army No. 4291889 K Rank Sipahi, Prem Kumar Singh, Bihar Regiment Centre Danapur Cant, Pin- 801503

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mirityunjay Kumar, Advocate Mr. Ranjeet Kumar, Advocate Mr. Kanishk Kaustubh, Advocate
For the Opposite Party	:	Mr. Dilip Kumar Ray, Advocate Mr. Mithlesh Kumar Khare, Advocate Ms. Kumari Anupam, Advocate Mr. Rabish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

13 08-07-2025 This is an application under Section 19(4) of the Family Courts Act filed by the petitioner of the Maintenance Case No. 22/2020 which was disposed of *vide* judgment dated 06th October, 2023 by the learned Principal Judge, Family Court at Siwan.

2. Only point involved in the instant criminal revision is with regard to the quantum of maintenance. The trial court decided the issue in following words:

“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 05th month of 2023 wherein his basic pay is shown as Rs. 31,400/-, DA is 16,884/- = Rs. 48,284/- deducting the statutory deduction (AGIF Fund Rs. 5000/- + AFPP Fund Subscription Rs. 1885/- + Income Tax Rs. 1713/- = Rs. 8,598/-) Thus, the income of the petitioner is Rs. 48,284/- - Rs. 8,598/- = Rs. 39,686/- 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 is dependent upon him. Therefore, the assessed income of the OP i.e. Rs. 39,686/- is divided into four parts as two share should go to the OP who is earning the money and one share to the petitioner and one share should be his father. Thus, the share of the petitioner comes to Rs. 9,921/-. Accordingly, Rs. 9,921/- per month seems to be a just and reasonable amount for maintenance of the petitioner by the OP.

17. Now, the only question remained that from which date maintenance amount shall be paid to the petitioner, it is held by Hon'ble Apex Court in Criminal Appeal No. 730/2020, Rajnesh Vs. Neha order dated 04th of November, 2020 that the maintenance amount shall be payable from the date of filing of the application for the maintenance. The application for maintenance was filed by the petitioner on 18.01.2020. Thus, the petitioner is entitled for getting maintenance since 18.01.2020."



3. On bare perusal of paragraph no. 16 of the impugned order, it appears that the trial court held the net salary of the O.P./husband as Rs. 39,686/- per month. He divided the net salary into four parts and allotted two shares to the O.P./husband and one share to the petitioner and one share to the father of the O.P./husband. Thus, the learned Principal Judge, Family Court at Siwan granted a maintenance allowance at the rate of Rs. 9,921/- per month in favour of the petitioner/wife. The petitioner, being aggrieved with the quantum of maintenance, has filed the instant revision. It is contended on behalf of the petitioner that the learned trial Judge allotted one share to the father of the O.P./husband for his maintenance. However, in the impugned order there is absolutely no discussion as to whether the father of the OP/husband is dependent upon the OP/husband or not. Without such a finding, no order can be passed granting maintenance of one share of income of the O.P./husband in favour of his father.

4. Section 125 of the CrPC is a provision for granting maintenance allowance not only to the wife who has been refused to be maintained by her husband but also gives the right to dependent parents to claim maintenance from his son who does not maintain the parents in spite of his having sufficient



income. No such application has been filed by the father of the O.P./husband.

5. At the time of hearing of the instant revision on 07th July 2025, the O.P./husband has filed a photostat copy of his salary slip for the month of March 2025. It appears from the salary slip that the gross salary of the petitioner is Rs. 69,945/- and the net salary is Rs. 60,151/-. It is no longer *res integra* that the court should grant a maintenance allowance to the wife, taking into consideration the status of her daily life, which she used to maintain with the opposite party during the happy days of marriage. A very recent decision of the Hon'ble Calcutta High Court in the case of ***Hasin Jahan vs. State of West Bengal and Another***, reported in ***2025 SCC OnLine Cal 5452***, the High Court referred to paragraph no. 80 of the Hon'ble Supreme Court's decision in the case of ***Rinku Baheti v. Sandesh Sharda***, reported in ***2024 SCC OnLine SC 3801***, which reads as follows:

"80. We have serious reservations with the tendency of the parties seeking maintenance or alimony as an equalisation of wealth with the other party. It is often seen that parties in their application for maintenance or alimony highlight the



assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse. However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the wealth of the spouse has decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse. The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present



status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status, would be putting a burden on his own personal progress. We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper?"

6. In the instant case, the O.P. earns Rs. 60,151/- at present. Thus, the petitioner is entitled to get Rs. 15,000/- per month being one-fourth of the total income of the O.P./husband from January 2025. Accordingly, the impugned order passed in Maintenance Case No. 22 of 2020 passed by the learned Principal Judge, Family Court, Siwan on 06th October 2023 is modified to the extent that the petitioner would get Rs. 15,000/- per month from the month of January, 2025. The obligation of the O.P./husband to pay maintenance allowance from the date of the filing of the application till December 2024 is assessed at the rate of Rs. 10,000/- per month which the petitioner is entitled to get.

7. With the above order, the impugned order passed in



Maintenance Case No. 22 of 2020 passed by the learned Principal Judge, Family Court, Siwan on 06th October 2023 is modified.

8. The instant criminal revision is accordingly, disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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