

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1019 of 2024

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

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Surbhi Kumari @ Kumari Surbhi W/o- Raju Kumar Sah, D/o- vinod Kumar
Village- Lauria Mishra Tola, P.S- Lauria, District- West Champaran, A/P-
Chanpatiya W.No-7, Ps- Chanpatiya Dist- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Raju Kumar Sah s/o- Surendra Prasad Sah Village- Lauria Mishra Tola, P.S-
Lauria, District- West Champaran, A/P- Assistant Loko Pilot New Railway
Colony Flat No-718/E, Near Santoshimata Mandir Sabarmati Dist-
Ahmadabad Gujrat

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Narain Singh, Advocate Mr. Kundan Kumar Sinha, Advocate
For the State	:	Mr. Sunil Kumar Pandey, APP
For the O.P. No.2	:	Mr. Bimlesh Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 04-08-2025 The instant revision under Section 19(4) of the Family
Courts Act, 1984 challenges an order of maintenance dated
27.09.2024 passed by the learned Principal Judge, Family Court,
West Champaran at Bettiah in Maintenance Case No.16 of 2018
directing the opposite party No.2 to pay maintenance at the rate
of Rs.10,000/- per month to the petitioner/wife and Rs.5,000/-
per month to the minor child to the parties, total being
Rs.15,000/- per month.

2. From the revisional application, impugned order
and other materials on record, this Court finds that there is no



dispute of marital status between the petitioner and the opposite party No.2. It is also not disputed that the petitioner gave birth to a male child in the wedlock with the opposite party No.2 in the year 2012. Unfortunately, marital discord came to surface. Since, in the month of October, 2017 resulting in ouster of the petitioner from her matrimonial home.

3. In order to maintain herself and her minor son, the petitioner filed an application under Section 125 of the Cr.P.C., which was registered as Maintenance Case No.16 of 2018. The learned Principal Judge, Family Court, West Champaran at Bettiah on due consideration of the evidence on record as well as the affidavits of assets and liabilities passed the above order directing the opposite party No.2 to pay maintenance at the rate of Rs.15,000/- per month in the manner described above.

4. The petitioner has challenged the said order passed in Maintenance Case No.16 of 2018, on the ground that as per the judgment of the Hon'ble Supreme Court in ***Kalyan Dey Chaudhary Vs. Rita Dey Chaudhary Nee Nandy***, reported in ***(2017) 14 SCC 200***, the petitioner is entitled to get 25% of the salary of the opposite party No.2 towards maintenance allowance.

5. The learned Advocate for the petitioner frequently



submits that if on calculation 25% of the amount comes down to even less than Rs.15000/-, the petitioner is agreeable to accept the said amount.

6. The learned Advocate on behalf of the opposite party No.2, too relied on the ration laid down by the Hon'ble Supreme Court in *Kalyan Dey Chaudhary (Supra)* and draws my attention to Para-12 of the impugned judgment. In para-12 of the impugned judgment, it is recorded by the Trial Court that the opposite party No.2 is posted in Indian Railways as Loco Pilot. He is getting basic salary of Rs.36,500/-, D.A. of Rs.23,725/- and T.A., on the basis of the kilometer he runs as a Loco Pilot. He is paying EMI of Rs.22,875/- per month against a loan of Rs.8,00,000/- from Indian Railways and Rs.7,200/- per month against a Personal Loan of Rs.1,50,000/- drawn on Axis Bank. Thus, the net salary of the opposite party No.2 comes to $\text{Rs.}36,500 + 23,725 + 22,875 + 7200 = \text{Rs.}84,200/-$. This amount does not add the statutory deductions of Income Tax and G.P.F..

7. 25% of Rs.84,200/- comes to Rs.21,050/-.

8. Therefore, the petitioner and her minor son are entitled to get at least Rs.21,000/- per month from the opposite party No.2.

9. The order passed in Maintenance Case No.16 of



2018 is accordingly, modified directing the opposite party No.2 to pay maintenance at the rate of Rs.15,000/- per month to the petitioner and Rs.6,000/- per month to the minor son of the parties from the date of filing of the application under Section 125 of the Cr.P.C.

10. With the above order, in the instant revision is, accordingly, allowed on contest.

(Bibek Chaudhuri, J)

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