

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.13 of 2024

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

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Sunil Paswan @ Suneel Kumar

... .. Petitioner/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aman Vishal, Advocate
For the Respondent/s	:	Mr. Ram Priya Sharan Singh, Advocate
For the O.P. No. 2	:	Mr. Santosh Chandra Bhaskar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

9 08-07-2025 The instant revision under Section 19(4) of the

Family Courts Act is directed against an order passed in the Maintenance Case No. 71 of 2021 by the learned Principal Judge, Family Court at Aurangabad, on 14th September, 2023, allowing the application under Section 125 of the CrPC filed by the petitioner/wife against her husband, granting Rs. 4,000/- per month in favour of the petitioner/wife and Rs. 2,000/- per month for the maintenance of their minor child from the date of filing of the application.

2. The petitioner/husband has challenged the impugned order on the following grounds:

(i) the O.P. No. 2/wife herself left her matrimonial home without any sufficient reason or cause and, therefore, she is not entitled to get any maintenance from the petitioner/husband.

(ii) the parents of the petitioner are old, ailing persons



specially the father of the petitioner has been suffering from eczema and petitioner spends most of his earnings on medical treatment of his father.

(iii) the petitioner does not have any source of income. The Opposite Party No. 2/wife failed to produce any document showing the income of the petitioner.

3. Under such circumstances, the impugned order is bad in law and liable to be set aside.

4. From the pleadings of the parties, it appears that marriage between the petitioner and the opposite party no. 2 is not disputed. The birth of a minor child in the wedlock between the petitioner and the O.P. No. 2 is also admitted and no opposition comes up from the side of the petitioner/husband in his written objection. The learned Advocate on behalf of the petitioner refers to the written objection filed by the petitioner in Maintenance Case No. 71 of 2021. It is submitted by the learned Advocate for the petitioner that the marriage between the parties were solemnized on 15th May 2007 and on 10th October, 2007 she left her matrimonial home with an unknown person on a motorcycle to her paternal home. It is also stated that the O.P. No. 2/wife used to talk to many unknown persons from his mobile phone without the consent of her husband. She refused



to take care of the father of her husband, who is suffering from eczema. Thus, it is contended by the petitioner that his wife never stayed regularly with him since 2007. The petitioner also denies his income as alleged by his wife in her application under Section 125 of the CrPC, on the other hand, it is stated that his wife earns Rs. 8,000/- per month working in a shopping mall.

5. On careful perusal of the materials on record, I find that the O.P. No. 2 was compelled to file a case against the present petitioner under Section 498A and other co-ordinate penal provisions, and the said case is still pending. In the said case, this Court granted interim bail to the petitioner on the condition that they would settle their marital dispute amicably in mediation, but the fact remains that the dispute has not been settled. It is not in dispute that the O.P. No. 2 has been residing in her paternal home with her minor child. The petitioner, being her husband, failed to produce even a chit of paper to show that during this long period, he paid any money for the maintenance of the wife and their minor child, even on a single occasion.

6. It is needless to say that there cannot always be direct evidence of the allegation that the wife left her matrimonial home without any sufficient reason or cause. The said fact can be ascertained from surrounding circumstances. In



the instant case, non-payment of a single farthing to the O.P. No. 2, the institution of a case under Section 125 of the CrPC, etc., are sufficient evidence to hold that the petitioner neglected and refused to maintain the O.P. No. 2 and their minor child. Therefore, the O.P. No. 2, with her minor child, took shelter at her paternal home.

7. In view of the above discussion, this Court finds that the O.P. No. 2 and her child are entitled to get maintenance allowance from the petitioner.

8. It is stated by the O.P. No. 2 that the petitioner works as a contractor and earns Rs. 50,000/- per month. He has also agricultural land from which he has substantial income. The O.P. No. 2, however, failed to produce any document in court during the trial in order to prove the income of her husband. On the contrary, the petitioner also did not take recourse of the direction made by the Hon'ble Supreme Court in *Rajnesh vs. Neha* reported in *(2021) 2 SCC 324* by filing affidavits of his assets and liabilities to produce the clear picture before the trial court.

9. The trial court granted Rs. 4,000/- per month to the O.P. No. 2 and Rs. 2,000/- per month to the son of the parties. The said amount is bare minimum to maintain two mouths. The



Court is alive to note that a sum of Rs. 6,000/- cannot even feed two persons, leaving aside their needs of clothing, medicine, etc. The petitioner cannot deny his obligation to maintain his wife and child on the plea that he spends most of his income in medical treatment of his father. He has the obligation to maintain his father, at the same time, he has the obligation also to maintain his wife and the minor child who was born in the wedlock between the parties. For the reasons stated above, I do not find any illegality or material irregularity in the impugned order passed on 14.09.2023 by the learned Principal Judge, Family Court, Aurangabad in Maintenance Case No. 71/2021 dated 05.04.2021.

10. Accordingly, the revisional application is dismissed. The said impugned order is affirmed.

11. Let the trial court's record be returned to the concerned court below.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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