

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Rev. No. 577 of 2019

Rinki Kumari @ Anita Kumari aged about 32 years, wife of Kundan Kumar @ Kundan Kumar Singh and daughter of Tilak Sharma, permanent resident of village Korma, P.O. Chhatubagh, P.S. Chandauti, District Gaya (Bihar) at present residing at Tungri Toli, behind St. Francis School, Harmu, P.O. Harmu, P.S. Argora, District Ranchi (Jharkhand)

... .. **Petitioner**

Versus

Kundan Kumar @ Kundan Kumar Singh, son of Amrendra Kumar Singh @ Munna Singh, resident of village Korma, P.O. Chhatubagh, P.S. Chandauti, District Gaya (Bihar).

... .. **Opposite Party**

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**CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

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For the Petitioner : Mr. Arjun N. Deo, Advocate

For the Opp. Party : Mr. Vikas Kumar, Advocate

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**Through Video Conferencing**

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09/07.01.2022

Learned counsel for the petitioner Mr. Arjun N. Deo is present.

2. Learned counsel for the opposite party Mr. Vikas Kumar is also present.

3. The present revision application has been directed against the judgement dated 18.02.2019 passed by the learned Addl. Principal Judge, Addl. Family Court, Ranchi in Original Maintenance Case No. 198 of 2014 (under Section 125 of the Criminal Procedure Code, 1973), whereby the learned court below has allowed the application of the petitioner and directed the opposite party to pay an amount of Rs. 1500/- per month to the petitioner from the date of passing of the judgement and has further directed to pay Rs. 5,000/- lump sum as litigation cost and has also directed the opposite party to make payment of monthly allowance on or before 10<sup>th</sup> day of each month of English calendar.

4. Vide order dated 31.01.2020, this Court has refused to interfere with the quantum of maintenance. However, the

notice was issued on the point regarding effective date of grant of maintenance whether it should have been from the date of passing of the impugned judgement or from the date of filing of the maintenance application.

5. Pursuant to the notice, the opposite party has appeared, but no counter-affidavit as such has been filed by the opposite party.

6. The learned counsel for the petitioner has relied upon a judgement passed by Hon'ble Supreme Court reported in *(2021) 2 SCC 324 (Rajnish Vs. Neha and Another)* and has referred to para 113 of the said judgement to submit that the law has been well-settled that in a case of maintenance, the maintenance is to be awarded from the date of filing of the application since the period during which maintenance proceeding remained pending, is not within the control of the applicant. The learned counsel submits that the point on which notice was issued in the present case is squarely covered by the aforesaid judgement.

7. The learned counsel appearing on behalf of the opposite party, on the other hand, submits that pursuant to order dated 10.12.2021 he was to seek instructions as to whether maintenance has been paid to the petitioner as per the impugned order or not, but he does not have any instructions.

8. Upon this, the learned counsel for the petitioner submits that not even a farthing has been paid to the petitioner and this fact has been mentioned by the petitioner in the present memo also.

9. After hearing the learned counsel for the parties, this Court finds that the learned court below, while allowing the petition for maintenance on contest, directed the opposite party to pay monthly maintenance at the rate of Rs. 1500/- per month from the date of passing of the judgement along with a lump sum litigation cost of Rs. 5,000/- with further direction to make

payment of monthly allowance on or before 10<sup>th</sup> day of each month of English calendar.

10. Considering the aforesaid judgement relied upon by the petitioner in the case of *Rajnish Vs. Neha and Another (Supra)* wherein in paragraph 113, the Hon'ble Supreme Court has issued direction to bring about uniformity and consistency in the orders passed by all courts by directing that maintenance be awarded from the date on which the application was made before court concerned, the right to claim maintenance must date back to the date of filing the application since the period during which the maintenance proceedings remained pending is not within the control of the applicant.

11. In view of the aforesaid judicial pronouncement of the Hon'ble Supreme Court, the impugned order dated 18.02.2019 passed by the learned Addl. Principal Judge, Addl. Family Court, Ranchi in Original Maintenance Case No. 198 of 2014 to the extent it directs payment of monthly maintenance from the date of judgement, is not sustainable in the eyes of law and it is accordingly modified by holding that the petitioner would be entitled for the payment of monthly allowance as fixed by the learned court below from the date of application filed before the learned court below which is dated 22.09.2014.

12. Thus, the petitioner would be entitled for maintenance at the rate of Rs. 1500/- per month from the month of October, 2014 apart from the litigation expenses of Rs.5,000/- already fixed by the learned court below.

13. The entire arrears of maintenance for 88 months till January, 2022 comes to Rs. 1,32,000/- and by including litigation expenses, it comes to Rs. 1,37,000/-.

14. The learned counsel for the petitioner has furnished the details of the bank account of the petitioner which is as follow:

*Account holder name : Mrs. Anita Kumari*

*Bank name and Branch: Punjab National Bank,*

*Indira Place, Hinoo, Ranchi*

*Account No.* : 4670001700016695

*MICR Code* : 834024007

*IFSC Code* : PUNB0467000

15. The opposite party is directed to remit the arrears of maintenance and litigation expenses amounting to Rs. 1,37,000/- in monthly instalment of Rs. 10,000/- each with effect from 10<sup>th</sup> February, 2022 along with the current monthly maintenance amount for each month, as directed by the learned court below to the aforesaid bank account of the petitioner through RTGS mode.

16. The present criminal revision petition is accordingly disposed of with the aforesaid modification of the impugned judgement and aforesaid direction to the opposite party.

17. Let a copy of this order be communicated to the opposite party by the office through speed post and the office is directed to track the speed post-delivery online and put the same on record.

18. Let this order be communicated to the learned court below through FAX / e-mail.

**(Anubha Rawat Choudhary, J.)**

*Pankaj*