

DISTRICT: BANKA Bibi Maimuna & others Vs. Md. Alimuddin
Date of filing :-23/03/2024
Date of decision:-16/06/2026
IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT, BANKA
MISC.(MAINTENANCE)CASE NO. 33 OF 2024

In the matter of:

1. Bibi Maimuna aged about 32 years, W/o- Md. Alim Uddin
2. Bibi Fatma aged about 11 years, D/o- Md. Alim Uddin
3. Md. Umar Faruque aged about 05 years, S/o- Md. Alim Uddin
A/r/o- Kasba, P.S. Mahgama, District-Godda(Jharkhand)
At present- D/o- Md. Sultan, r/o- Bhagondha, P.S. Dhankund, District-Banka.

.....Petitioners

Versus

Md. Alim Uddin, S/o- Md. Naeem, r/o- Kasba, P.S. Mahgama, District-Godda(Jharkhand)

.....Opposite Party

Present: Dharmendra Jha

Principal Judge, Family Court, Banka.

Banka, Dated the 16th day of June, 2026

For the petitioner : Mr. Binay Kumar Singh, Advocate

For the Opposite Party : None

1. This petition has been filed U/s 125 of the Code of Criminal Procedure, 1973 by the petitioner/wife against her husband/O.P. with a prayer to grant maintenance of Rs. 25,000/- per month for herself and her minor children(petitioner no. 02 to 03).

2. The case of petitioner Bibi Maimuna, in brief is that, she got married with opposite party namely- Md. Alim Uddin on 05/07/2011 according to Muslim rites and rituals and after bidagari she went to her matrimonial house with gifts worth of Rs.1,50,000/- and started leading happy conjugal life. Out of their wedlock, petitioner no. 02 namely Bibi Fatma and Petitioner no. 03 Md. Umar Faruque were born. It is further stated that petitioner resided happily at matrimonial home for a period of ten years and after birth of son namely Md. Umar Faruque, Opposite party and his family members started demanding to bring rupees 1,00,000/- as dowry from her father and brother and due to non-fulfillment of dowry demand, O.P., his mother and brother threatened to solemnize second marriage of O.P. When petitioner expressed inability of her father and brother to full-fill the demand of dowry, they started assaulting the petitioner and stopped giving foods, medicines and education fee of her children. Petitioner gave information regarding the same to her father and brother and they came to the matrimonial home of petitioner and persuaded to O.P. and his family members but they threatened unless she brings Rs.1,00,000/-, she would not be allowed to enter in matrimonial home. It is further stated that O.P. contracted second marriage with one Bibi Anjum, D/o- Md. Dukhan, village- Kasba, P.S. Mahgama, Godda(Jharkhand) in the year 2021. Petitioner along with her children was driven out from her matrimonial home after snatching all jewelliers and clothes, thereafter, petitioner filed a complain case bearing complaint Case No. 21/2024 before the court of Id. C.J.M., Banka and presently which is sub-judice before the J.M. 1st, Banka. It is further stated that O.P. is a mason in Bhagalpur and he earns around Rs. 40,000/- per month. Apart from this O.P. has two bighas land from which he gets income of Rs. 20,000/- annually. Petitioner is

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unable to maintain herself and her children. Accordingly, it has been prayed that O.P be directed to pay Rs. 25,000/- per month maintenance to petitioner and her children.

3. After admission of this case, notices were sent to O.P. through Nazarat as well as registered post. Thereafter, vide order dated 02/09/2024 service of notice was confirmed and on the same day, the case was proceeded ex-parte against O.P. and case was fixed for petitioner's evidence.

4. The petitioner has produced two witnesses which are as follows:-

P.W.-1 Maimuna Khatoon(petitioner herself)

P.W.-2 Md. Sultan(father of the petitioner)

Besides the above, the petitioner has not got exhibited any documents in support of her case.

5. The petitioner has filed her affidavit of assets and liabilities in light of judgement of the Hon'ble Supreme Court in Rajnesh Vs. Neha.

POINT OF DETERMINATION

6. Now the point of determination before the court is that whether the petitioner is entitled for maintenance from the respondent, if yes, then to what amount?

7. The evidences of witnesses on behalf of petitioner, in brief are as follows:-

APW-1, Maimuna Khatoon is petitioner herself and she has stated that she was married with Md. Alim Uddin/O.P. according to Muslim rites and rituals about eleven years ago and she went to her matrimonial house. She resided happily there for a period of ten years, thereafter, her husband/O.P. demanded Rs. 1,00,000/- and a motorcycle as dowry and the said demand was not full-filled by her father. Out of their wedlock two children were born. Due to non-fulfillment of demand of dowry, she along with her children was driven out from the matrimonial home and after panchayati she went to matrimonial home and again she was driven out from there. She further deposed that since then she is residing at her maiyka and her husband/O.P. did not give a single penny to her for maintenance of herself and her children. Her parents is not in condition to maintain her and her children. She has also no source of her own. It is further stated that O.P. is a mason and from which he earns Rs. 8,00/- daily and apart from this O.P. has two bighas land and from which he gets income. Further it is stated that she needs Rs. 20,000/- per month for herself and her children for maintenance.

APW-2, Md. Sultan, is father of petitioner and he has deposed that marriage of petitioner with O.P. was solemnized about 11-12 years ago. He further deposed that her daughter/petitioner resided happily at matrimonial home for a period of 5-6 years. Thereafter, her son-in-law/O.P. demanded Rs. 1,00,000/- and a motorcycle as dowry and due to non-fulfillment of demand of dowry, her daughter/petitioner was driven out from the matrimonial home. Out of wedlock two children were born. He further deposed that his daughter/petitioner is residing at his house for about 7-8 years and he is not a condition to

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maintain his daughter and two children. His daughter/petitioner has no source of income of her own to maintain herself and her children. He further deposed that his son-in-law/O.P. works as Rajmistri(Mason) and from which he earns Rs. 25-30 thousands per month and apart from this he has two bighas of land from which he gets income. He further deposed that her daughter/petitioner needs Rs. 20,000/- per month for herself and her children for maintenance.

8. (i) The Hon'ble Supreme Court in *Vimala (K.) v. Veeraswamy (K.)* [(1991) 2 SCC 375 : 1991 SCC (Cri) 442] , while discussing about the basic purpose under Section 125 of the Code, opined that : (SCC p. 378, para 3)

3. "Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife."

(ii) The Hon'ble Supreme Court in *Kirtikant D. Vadodaria v. State of Gujarat* [(1996) 4 SCC 479 : 1996 SCC (Cri) 762] , while adverting to the dominant purpose behind Section 125 of the Code, ruled that : (SCC p. 489, para 15)

15. "... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation."

(iii) The Hon'ble Supreme Court in *Chaturbhuj v. Sita Bai* [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] , reiterating the legal position the Court held : (SCC p. 320, para 6)

6. "... Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in *Capt. Ramesh Chander Kaushal v. Veena Kaushal* [(1978) 4 SCC 70 : 1978 SCC (Cri) 508] falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they

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are unable to maintain themselves.The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat [(2005) 3 SCC 636 : 2005 SCC (Cri) 787].

9. Now reverting back to the facts of present case, petitioner has solemnized marriage with opposite party on 05/07/2011 and out of wedlock two children were born. The evidence of A.P.W.-01 and A.P.W.-02 establish that the petitioner was married with O.P. about 11-12 years ago according to Muslim rites and rituals. A.P.W.-02 is none other but father of the petitioner. All witnesses in unison stated that Opposite party is a mason. Petitioner stated that income of her husband is Rs. 800/- daily and her father(A.P.W.02) has stated that her son-in-law/O.P. earns Rs. 25,000/- to Rs. 30,000/- per month. From the evidence of witnesses it is crystal clear that petitioner is legally wedded wife of O.P. The Petitioner is residing at maiyke. The Petitioner has no source of income and she is unable to maintain herself and her children. The O.P. has sufficient means, yet he neglected and refused to maintain his wife and children. No contrary evidence has come on record in this regard. But it is also a fact that any chit of paper has not been filed to establish the income of O.P. The assets and liabilities affidavit filed by the petitioner indicates that general expenses of petitioner is Rs. 25,000/- per month. It is also mentioned in affidavit of the petitioner that O.P. is a *Raj Mistri* and O.P. has own house. The O.P. being able bodied person can earn even on daily wages to maintain his wife/petitioner and children. The prevalent rate of daily wages of skilled labour in Bihar is around Rs. 14,326/- per month. The O.P. being husband of petitioner is legally bound to maintain his wife and children. Accordingly, this court is of view that Rs. 3000/- per month to the petitioner and Rs. 1,000/- per month each to the petitioner no. 02 to 03 from the date of filing of this petition for maintenance.

10. Having regard to facts and circumstances of the case as discussed above as well as material available on record this court is of the view that the petitioner is entitled for maintenance U/s 125 Cr.P.C. Accordingly, the O.P. (husband) is directed to pay the petitioner/(wife) Rs. 3000/- per month to the petitioner and Rs. 1,000/- per month each to the petitioner no. 02 to 03(till the attainment of majority) from the date of filing of this petition for maintenance(i.e. 20/03/2024). The O.P. is directed to pay the monthly maintenance amount by 10th day of every next month and clear the arrears of maintenance within three months of this order. The petition is allowed in the aforesaid terms.

Office Clerk is directed to send this record to D.R.R. Civil Court, Banka.

Dictated & corrected by me.

(Dharmendra Jha)
Principal Judge,
Family Court, Banka.

(Dharmendra Jha)
Principal Judge,
Family Court, Banka.