

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.591 of 2014

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Abhishek Kumar, Son of Bharat Singh, resident of village-
Horil Chapra, Police Station- Malahi, District- East
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Reena Devi, daughter of Dashrath Singh, resident of
Mohalla- Belwanawa, Police Station- Town Motihari, District-
East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Respondent/s : Mr. Md. Nazir Ansari (App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

9 07-12-2016 Heard the parties.

The present criminal revision application, under
Section 397 read with Section 401 of the Code of Criminal
Procedure, 1973, has been filed against the judgment and
order, dated 31.01.2014, passed by the learned 5th Additional
District & Sessions Judge, East Champaran, Motihari, in Cr.
Appeal No. 130 of 2012, whereby, the learned court below
has fixed a sum of Rs. 10,000/- per month as maintenance in



place of a sum of Rs. 1,000/- per month, which was granted by the learned Chief Judicial Magistrate, East Champaran, Motihari, in Domestic Violence Case No. 6 o 2011.

Despite service of notice, there is no representation on behalf of opposite party No. 2.

The main ground, which has been taken to assail the impugned order, is that it has been passed without service of notice upon the petitioner, as stated in paragraph 11 of this application.

There is no denial to this fact. On this ground alone, the impugned judgment and order, dated 31.01.2014, needs to be interfered with.

Learned counsel for the petitioner has further submitted that opposite party No. 2 had filed maintenance case in the Court of learned Principal Judge, Family Court, East Champaran, Motihari, being Maintenance Case No. 108 of 2011, which has recently been disposed of and some maintenance has been fixed.

Considering the above facts and circumstances, this application is allowed.

The impugned judgment and order, dated 31.01.2014, is set aside. The matter is remanded back to the learned court below to pass an order afresh after giving the petitioner an opportunity of being heard and taking into



account subsequent development that the claim of maintenance of opposite party No. 2 has finally been decided by the Court of learned Principal Judge, Family Court, East Champaran, Motihari, in Maintenance Case No. 108 of 2011.

This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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