

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.149 of 2018

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Manju Kumari, aged about 47 years, Wife of Sri Jitendra Kumar, D/o Late Bindeshwari Prasad, Presently residing at Ashok Nagar, Ram Lakhan Path, Kankarbagh, P.S.- Kankarbagh, District- Patna.

.... Petitioner/s

Versus

Jitendra Kumar, S/o Sri Sukhdeo Prasad Yadav, Resident of Village- Bandhu Bigha, P.O.- Pandol, P.S.- Sakurabad, District- Jehanabad, Present Address- Residing Behind Community Hall, Gandhi Maidan, Near Pani Tanki, Mohalla- Devaria (South of Pani Tanki of Old Court Area Jehanabad, P.O.+ P.S.- Jehanabad, District- Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

- 4 11-05-2018 The petitioner/wife had approached the Family Court for enhancement of the maintenance allowance for which necessary application was filed and the case was being heard by the Additional Principal Judge, Family Court, Patna. On 23.05.2013, after recording the statement of the parties, the Court fixed a date for adducing evidence on behalf of the petitioner. However, on 08.12.2017, the Court below observed that on some days, the petitioner is absent whereas on some other days, the opposite party is absent. On the basis of the aforesaid conduct of the petitioner and the opposite party, the Court came to the conclusion that



perhaps the parties have lost interest in prosecuting the present petition, seeking maintenance. As such, the petition was dismissed.

The learned counsel for the petitioner has submitted that the non-appearance of the petitioner was not deliberate but was only because of miscommunication about the date fixed by the Family Court.

In any view of the matter, the order does not reflect as to on which all dates, the petitioner did not present himself or was not represented through his counsel.

In that view of the matter, the order dated 08.12.2017 passed by the learned Additional Principal Judge, Family Court, Patna is set aside.

The matter is remitted to the learned Principal Judge, Family Court, Patna for deciding the issue. Needless to say that the petitioner should appear on all dates and the absence of the petitioner on three consecutive dates would again render the petition liable for being rejected for non-prosecution.

With the aforesaid observation, the present petition is allowed.

(Ashutosh Kumar, J)

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