

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23539 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Ram Chandra Das son of Gopal Das, Resident of village- Bojhayal, P.O-
Mudwaro, P.S- Khaira, Dist- Jamui

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Malo @ Malti Devi w/o Ram Chandra Ravidas, D/O- Dayal Das, resident of
village-Bojhayat, P.S- Khaira, Dist- Jamui, presently resident of village-
Ganda, P.S- Sono, Dist- Jamui.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Dass
For the Opposite Party/s : Mr. Lalan Kumar App

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 02-12-2019

This petition has been filed for setting aside the *ex parte* order dated 21.10.2014 passed in Maintenance Case No. 74M of 2013 passed by Principal Judge, Family Court, Jamui by which the learned Court has granted maintenance of Rs. 3,500/- per month to be paid to opposite party no. 2 and her children by the petitioner. Petitioner is aggrieved by the *ex parte* order and states that no notice was served upon him as such he could not appear and the order was passed *ex parte* under section 125 Cr.P.C.

It has been submitted on behalf of petitioner that order of maintenance has been passed *ex parte* without any notice to him. Under section 126(2) of Cr.P.C. there is provision



that if an *ex parte* order has been passed against a party without proper notice, he has liberty to file an application for setting aside the *ex parte* order and the court below on being satisfied that no notices were validly served upon him can recall *ex parte* order.

Learned counsel for the petitioner is granted liberty to avail the remedy as provided under Section 126(2) of Cr.P.C. for recall of the *ex parte* order. If any such application is filed by petitioner for recalling of *ex-parte* maintenance order on the ground that no notice was served upon him then the court shall consider such application after granting opportunity and hearing to both parties and shall pass appropriate order on such petition preferably within three months from the date of receipt of such application.

Criminal Miscellaneous is disposed of.

(S. Kumar, J)

Ranjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2019
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