

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.55 of 2016

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

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Santosh Yadav, son of Nirdhan Yadav, resident of Village-Kishanpur, P.S.
Saur Bazar, District Saharsa.

... .. Petitioner/s

Versus

1. Renu Devi, D/o Saheb Yadav (Husband Santosh Yadav)
2. Sita Kumari, minor under guardianship of her natural mother Renu Devi,
both residents of Kishanpur, P.S.- Saur Bazar, District-Saharsa at present
resident of Behorwa, P.S. Selkhua, District- Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Jayaswal, Adv. Ms. Anjana Bhagat, Adv. Mr. Rajeev Ranjan-II, Adv.
For the Respondent/s	:	Mr. Subesh Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

9 05-03-2019 This revision application has been directed against the

impugned order dated 02.08.2014 passed in Misc. Case No. 77 of

2009 by which the petitioner was directed to pay Rs.1300/- to

opposite party no.1 and Rs.700/- to opposite party no.2 from the date

of filing of the petition.

The case in short is that the opposite party no.1-wife has
filed a maintenance case before the Principal Judge, Family Court,
Saharsa and alleged that after birth of a daughter, the petitioner-
husband demanded Rs.80,000/- along with colour T.V. and when the
opposite party no.1-wife had not fulfilled the demand of the
petitioner, then the petitioner subjected her to cruelty and harassment.
Thereafter, when the father of opposite party no.1 went along with
some other persons to the house of the petitioner-husband, then the



petitioner refused to keep the opposite party no.1-wife along with him. Further case of opposite party no.1 is that the income of the petitioner is Rs.20,000/- per month from all sources including cow, buffalo and other sources, as such she has demanded Rs.10,000/- per month as her maintenance.

No notice was issued to opposite party no.2, however, it appears that the notice was not served and petitioner had not appeared and thereafter the case was taken up ex-parte and decided in favour of opposite party no.1-wife and granting maintenance of Rs.1300/- per month for opposite party no.1 and Rs.700/- per month for opposite party no.2.

Impugned order has been assailed by the petitioner on the ground that no notice was served on the petitioner and in the back of the petitioner, the impugned order has been passed and he has not been given opportunity to be heard. In support of his contention, he relied upon Annexure-3 to show that the registered notice returned unserved and instead of taking step of fresh service of notice, the impugned order has been passed and as such it does not sustainable in the eyes of law.

On the other hand, learned counsel for the petitioner submits that the notice was served upon him, but the same was returned that he was not available and as such the case was heard ex-parte and order was passed and not a single penny has been paid to the opposite party up till now, though the order has been passed in



the year 2016.

Having heard both sides, in view of the facts and circumstances of the case as discussed above, the impugned order does not appears to be sustainable on the sole point that without waiting for the valid service report or proper service of notice to the petitioner, who was the opposite party in the maintenance case, the order has been passed in his back directing the petitioner to pay Rs.1300/- to opposite party no.1 and Rs.700/- to opposite party no.2, which he has not paid.

In such view of the matter, the impugned order is set-aside. Family Court, Saharsa, is directed to pass afresh order within a period of 9 months after giving opportunity to both the parties to place their cases

In the meantime, the petitioner is directed to pay Rs.1000/- per month to the opposite party no.2, as an interim measure, which will be adjusted from the amount decided by the learned Family Court, Saharsa.

Accordingly, this application is allowed.

(Vinod Kumar Sinha, J)

Amjad/-

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