

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.252 of 2016

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

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Anand Swarnkar Son of Yogendra Swarnkar @ Joginder Swarnkar resident of
village - Bhatkhora Bazar, P.S. - Murliganj, District - Madhepura.

... .. Petitioner

Versus

1. State Of Bihar and Anr
2. Rani Devi daughter of Satya Narayan Swarnkar wife of Anand Swarnkar
resident of village - Gidhwas, P.S. - Raniganj, District - Araria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh
For the Respondent/s : Mr.Md.Arifapp

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 29-04-2019 Heard the parties.

This application is directed against the order dated 01.02.2016 passed by the Principal Judge, Family Court, Araria, in Maintenance Case No. 168/2015 under Section 125 Cr.P.C., by which, the Maintenance Case filed by the opposite party no. 2 was allowed and the petitioner was directed to pay Rs. 2500/- (Rs. Twenty Five Hundred)/- per month to opposite party no. 2 from the date of order by 10th of each successive month.

Ground for assailing the impugned order is that the petitioner has not been given the opportunity to participate in the proceeding and without waiting for the report of registered notice and without any substituted service of notice, the case has been fixed and the exparte order has been passed against the petitioner, which is against the principle of natural justice.



Learned counsel, appearing on behalf of opposite party no. 2 opposed the prayer of the petitioner and submitted that not a single penny has been given by the petitioner upto now and she also has a child to maintain.

Having heard both sides. Considering the facts and circumstances of the case, I deem it appropriate to remit the matter back to the learned Principal Judge, Family Court, Araria for hearing the case afresh after giving adequate opportunity to the petitioner to place his case and also to cross-examine the witnesses produced by opposite party no. 2 and the court below is directed to complete the aforesaid exercise within a period of six months.

However, considering the hardship faced by opposite party no. 2, petitioner is directed to pay Rs. 2000 (Rs. Two Thousand) per month to opposite party no. 2 as an interim measure till any final order is passed in the maintenance case.

With the above observation and direction, this application is allowed.

(Vinod Kumar Sinha, J)

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