

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.340 of 2019**

Arising Out of PS. Case No.- Year-0 Thana- District- Gopalganj

SERAJ AHMAD @ SARAJ AHMED Son of Nawbat Mian Resident of
Village- Jugal Dharampur, Vishunpura, P.O.- Katkuiyan, P.S.- Padrauna,
District- Kushi Nagar (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rukhsana Khatoon, W/o Seraj Ahmad @ Saraj Ahemed, D/o Mohammad
3. Zulfiqar Ahmad Son of Seraj Ahmad @ Saraj Ahemed
4. Shakiban Khatoon D/o Seraj Ahmad @ Saraj Ahemed
All Resident of Village- Purkhas Tola Laxmipur, Kutchery, P.O.- Bodha
Chapper, P.S.- Gopalpur, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha
For the Respondent/s : Mr. Ashraf Ansari

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 09-01-2020

Heard.

This criminal revision petition has been filed for setting aside the order dated 21.03.2018 passed in Maintenance Case No.365/2016 passed by learned Principal Judge, Family Court, Gopalganj by which the Principal Judge, Family Court has allowed ex parte maintenance in favour of opposite party no.2 and has directed the petitioner to pay a sum of Rs.4,000/- per month to the wife and minor children.

Marriage between the parties was solemnized on 26.06.2007 and from said wedlock, two children were born.



However, it was submitted by opposite party no.2 that she was being tortured for non-fulfillment of demand of dowry as such she had to live in her parental home with minor children and she had no source of income as such petitioner being husband is obliged to maintain her and on consideration of materials available on record, the court passed the maintenance order in favour of wife – opposite party no.2.

It has been submitted on behalf of the petitioner that the maintenance order has been passed by the family court without serving any notice upon him. It is stated that no notices were ever issued or served upon the petitioner as such he had no opportunity to file any show cause or contest the matter before the family court.

Under Section 127 of Cr.P.C., there is specific provision of recall of the order, if same has been passed ex parte against any party on a petition filed by him satisfying the court that no notices were served upon him and he had no knowledge about the filing of the Maintenance case as such learned counsel for the petitioner is granted opportunity to approach the family court which has passed the order of maintenance in favour of opposite party no.2 for recall of the ex parte order and if any such petition is filed by the petitioner, the family court



shall consider and pass appropriate order after hearing both the parties within three months from the date of filing of such application.

This criminal revision petition stands disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2020
Transmission Date	NA

