

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.460 of 2018

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

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Md. Enam Khan Son of Rehman Khan, Resident of Village- Saidih, Police Station- Khizersarai, District- Gaya.

... .. Petitioner/s

Versus

1. Hazra Khatoon, Wife of Md. Enam Khan, Daughter of Mustakin Khan,
2. Azad Khan, Son of Md. Enam Khan, Both resident of Village- Saidih, Police Station- Khizersarai, District -Gaya at present residing at Village- Telari, Police Station- Neemchakbathani, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Priyadarshi
For the Respondent/s	:	Mr. Sheikh Arkan Ahmad

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 13-12-2023 Heard the learned counsel for the petitioner, the learned counsel for the Opposite Parties.

2. An *ex-parte* order of maintenance under Section 125 of the Cr.P.C. is challenged in the instant revision by the husband of the original petitioner in Miscellaneous Case No. 132 of 2014, Opposite Party No. 2 herein.

3. It is submitted by the learned Advocate for the petitioner that the Opposite Party No. 2 / wife previously instituted an application under Section 125 of the Cr.P.C. against the present petitioner, which was registered as Miscellaneous Case No. 42 of 2013. The said



Miscellaneous Case was dismissed for default on the ground of absence of the learned Advocate on behalf of the Opposite Party No. 2 / wife. Subsequently, another application under Section 125 of the Cr.P.C., which was registered as Miscellaneous Case No. 132 of 2014 was filed. The petitioner / husband did not receive any notice of the said proceeding and he did not get any opportunity to contest the case.

4. Therefore, it is submitted by the learned Advocate for the petitioner / husband that the impugned order may be set aside only to give an opportunity to the petitioner / husband to contest the said Miscellaneous Case.

5. I have heard the learned Advocate for the petitioner and perused the materials on record. Since the petitioner / husband wants to contest the application under Section 125 of the Cr.P.C., this Court is of the view that fresh order under Section 125 of the Cr.P.C. ought to be passed in a contested manner.

6. For the reasons stated above, the impugned order, dated 16th of December, 2017, passed in Miscellaneous Case No. 132 of 2014 is set aside on



condition that without prejudice to the rights and contentions of the parties, the petitioner shall go on paying a sum of Rs. 3,000/- per month to the Opposite Party No. 2 as a lump-sum maintenance for herself and the children of the parties.

7. The petitioner is directed to appear before the court below within 15th of January, 2024.

8. The learned Principal Judge, Family Court, Gaya is directed to disposed of the maintenance proceeding being Miscellaneous Case No. 132 of 2014 afresh in a contested manner within a period of six months from the date of receipt of the impugned order and lower court records, if any, without granting unnecessary adjournments to either of the parties.

With the aforesaid observations / directions, this revision application stands disposed of.

(Bibek Chaudhuri, J)

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