

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.1590 of 2019**

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

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Md. Najim Son of Late Md. Mosim, Resident of Village- Bareol, P.S.-  
Kamtaul, Distt - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shakeela Khatoon D/o Md. Jahir, Resident of Village- Kamtaul, P.S.-  
Kamtaul, Post Office - Kamtaul, Distt - Darbhanga.

... .. Opp. Parties

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**Appearance :**

For the Petitioner/s : Mr. Mazharul Hassan, Advocate  
For the Respondent/s : Mr. Md. Matloob Rab, APP

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 27-04-2023**

Heard learned counsel for the petitioner and  
learned counsel for the State.

The present criminal revision application has been  
filed for setting aside the ex-parte order dated 17.02.2017  
passed by Principal Judge, Family Court, Darbhanga in  
Maintenance Case No. 121 of 2014 filed by opposite party no.2  
under Section 125 of the Cr.P.C. by which direction to pay  
maintenance Rs.2000/- per month has been made.

Counsel for the petitioner submits that the  
petitioner has already entered into compromise in criminal case  
before court of A.C.J.M.-IV. The compromise petition is  
Annexure-2. Paragraph nos.5 and 6 of the compromise petition

states as follows:-

*5. That the accused husband Md. Najim shall give Rs.1,00,000/- to his informant wife for permanent alimony.*

*6. That besides Rs.1,00,000/- the husband accused Md. Najim and other accused persons shall give Rs.2000/- per month till the lifetime of the informant.*

Counsel for opposite party (wife) submits that the petitioner is very clever. According to her, he has neither paid one lac rupees nor paying regularly Rs.2000/- per month. He further submits that after issuance of Distress Warrant only Rs.25,000/- has been received by the opposite party in her account.

On the other hand counsel for the petitioner submits that he is regularly paying the same. He also submits that without receiving money, no body shall sign on document and therefore, the contention of opposite party that amount has not been received is not correct.

From the documents and hearing the argument of the parties and particularly after going through the compromise, two things are clear. The first is that at the time of compromise amount was not paid but assurance was only made there to pay

rupees one lac rupees as permanent alimony.

Rs. 2000/- was directed to be paid in the criminal case not by the petitioner, rather by all accused persons, till the life time of O.P. No.2 and this amount shall also not definitely come within purview of maintenance as defined under Section 125 of Cr.P.C.. As per law, alimony and maintenance are two different distinct things and both cannot be merged.

From the order impugned, it transpires that summons/notice, Registered as well as through Nazarat and all processes were exhausted including speed post notice but court has observed that opposite party (petitioner) knowingly and deliberately evaded from appearance in this case before Principal Judge, Family Court, Darbhanga and then only this court has fixed the case ex-parte and after careful scrutiny has fixed the maintenance amount Rs.2000/- per month for the opposite party.

It is well known that petition under Section 19(4) of the Family Court Act, 1984 is entertainable by the High Court only in the case of legality, propriety or correctness. Counsel for the petitioner has raised none of the points before this Court. As such, the present criminal revision petition is hereby **dismissed**.

Principal Judge, Family Court, Darbhanga is

directed to calculate the arrear and then take all process for recovery of the said amount from the petitioner including issuance of process under Form 18/19 of Schedule-II of Cr.P.C. 1973 as well as steps described in the case of **Sarfaraj Alam @ Md. Sarfaraj Vs. State of Bihar & Ors.** reported in **2023 (1) PLJR 756.**

**(Dr. Anshuman, J.)**

ravishankar/-

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