

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 201 of 2022

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

Binod Sharma @ Vinod Sharma Son of Late Bani Modho Sharma @ Bani Madho Sharma Resident of Banglow No. 51b, Railway Officers Colony, Khagaul, Danapur, P.S.- Khagaul, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dimple Devi Daughter of Mahabir Sharma Resident of Village- Nagwa, P.S.- Shimri, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Ajay Kr Jain, Anil Kr Sinha, Shyamal Prakash, Advocates
For opposite party No 2	:	Mr Rajeev Ranjan, Advocate
For the State	:	Mr Ramchandra Singh, APP

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 04-09-2024

Heard learned counsel appearing for the parties and perused the impugned order as well as the records of the lower Court.

2 Vide impugned order dated 08.01.2021, the learned Principal Judge, Family Court, Buxar in Maintenance Case No 68 of 2018 filed by opposite party No 2 under Section 125 of Cr P C passed the ex parte order against the petitioner and directed him to pay a monthly maintenance of Rs 8,000/- to opposite party No 2 – wife.



3 Learned counsel for the petitioner would submit that, without service of any notice to the petitioner and without any opportunity of hearing to the petitioner, the learned Family Court passed the ex party order of maintenance. He further submits that though in paragraph 3 of the impugned order, the learned Family Court mentioned the fact that despite service of notice, the petitioner did not appear before the learned Family Court and he was also served with notice through paper publication but the petitioner did not receive any notice nor he has been served through paper publication. Therefore, on this ground alone, the impugned order is liable to be set aside.

4 Learned counsel for opposite party No 2 – wife has opposed the argument raised by the learned counsel for the petitioner.

5 Perusal of the record clearly shows that in the order sheet dated 23.11.2019, the learned Family Court mentioned the fact that for appearance of the opposite party, i e, the petitioner herein, notice has been sent and since he was not present, therefore, ex parte proceeding was done by the learned Family Court on 23.11.2019. There is no document available on record which shows that any notice has been served upon the petitioner. Perusal of the record further shows that there is no document or



order sheet is available which shows that the petitioner has been served with notice through paper publication. Therefore, it is clear that before the learned Family Court, neither notice has been served on the petitioner nor he has been served through paper publication. In spite of that, the learned Family Court, in paragraph 3 of its judgment, wrongly mentioned that petitioner has been duly served through registered post as well as publication in the newspaper. Thus, the above finding recorded by the learned Family Court is contrary to the record. Therefore, the impugned order on this ground alone is liable to be set aside.

6 Accordingly, the impugned order dated 08.01.2021 is set aside.

7 The matter is remitted back to the learned Family Court to decide the maintenance case afresh after giving appropriate opportunity of hearing to both the parties.

8 Both the parties are directed to remain present before the learned Family Court on 22.10.2024. It is also directed that within a span of two weeks from 22.10.2024, the petitioner herein will positively submit his written statement and after submission of the written submission, the learned Family Court is further directed to proceed and conclude the proceeding as early as



possible preferably within a period of six months from the date of submission of written statement before the learned Family Court.

9 With these observations and directions, this revision petition stands disposed of.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2024
Transmission Date	09.09.2024

