

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.329 of 2019

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

MD. JAKIR HUSSAIN @ JAKIR ALAM S/O Hasimuddin Resident of Khari Basti Mustafaganj, P.S.- Dighal Bank, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Munjela Khatoon W/O Jakir Alam Resident of Khari Basti Mustafaganj, P.S. - Dighal Bank, District - Kishanganj (Old Address resident of Kolha Basti, Harwadanga, P.S. - Dighal Bank, District - Kishanganj).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Ataur Rahman, Advocate Mr. Anisur Rahman, Advocate
For the Respondent/s	:	Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 25-01-2024 The instant application has been filed assailing an ex parte order of maintenance passed in Maintenance Case No. 55 of 2015 by the Principal Judge, Family Court, Kishanganj on the ground that the petitioner has not received any summons of the proceeding under Section 125 of the Cr.P.C. and without service of notice the impugned ex parte order was passed.

2. Since the proceeding under Chapter 9 of the Code of Criminal Procedure is both quashing civil and quashing criminal in nature, the opposite party has the remedy in the trial court to file an application for setting aside ex parte order.

3. In view of such circumstances, the petitioner is at liberty to take recourse of the appropriate legal step for



setting aside of the ex parte order and the revisional court without considering the lower court record and the service report, is not in a position to dispose of the instant Revision. Accordingly, the instant Revision is dismissed, however, the petitioner is at liberty to challenge the impugned order on the ground of service of notice in the trial court itself subject to the law of limitation.

(Bibek Chaudhuri, J)

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