

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 216 of 2024

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

Abu Talib @ Hafiz Abu Talib @ Md Talib Siddique @ Hafiz S/O Late Abdul Bairk @ Abdul Bari R/O Village- Molvi Tola, Doria Sonapur, Ward No. 11, P.S- Simraha (FORBESGANJ), Distt.- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bibi Talat @ Bibi Talat Praween W/O Abu Talib @ Hafiz Abu Talib @ Md Talib Siddique D/O Late Sadakat Hussain, R/O Village- Gaiyari, Ward No. 14, P.S- Araria Distt.- Araria. Presently Wife Of Md. Anwar Alam, R/O Village- Purandha Ward No. 06, P.S- Simraha, Distt.- Araria.
3. Md Anwar Alam S/O Taslimuddin R/O Village- Purandha Ward No.-06, P.S- Simraha, Distt.- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Md Ziaul Quamar, Advocate
For the S t a t e : Mr Umesh Lal Verma, APP
For Opposite Party No 2 : Mr Naushaduzzoha, Advocate

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 21-09-2024

Heard.

2 This revision petition has been preferred by the petitioner being aggrieved with the order dated 08.09.2023 passed in Maintenance Case No 383 of 2022 by the learned Principal Judge, Family Court, Araria whereby and where under the learned Principal Judge, Family Court allowed the application under Section 125 of the Cr P C submitted by the opposite party – wife and directed the petitioner to pay a monthly maintenance of Rs 10,000/- to the opposite party-wife from the date of submission of application, i e, 11.10.2022.



3 Learned counsel for the petitioner would submit that the impugned order passed by the learned Principal Judge, Family Court is an ex parte order and in the said maintenance proceeding, no notice has been duly served upon the petitioner and the learned Principal Judge, Family Court, on the basis of service of notice on the brother of the petitioner, namely, Sajid, arrived at the conclusion that notice has been duly served upon the petitioner. According to the counsel, the brother of the petitioner Sajid is residing separately and without getting any application for jointness, the learned Principal Judge, Family Court wrongly arrived on the conclusion that notice has been duly served upon the petitioner. Therefore, on this ground alone, the impugned order is liable to be set aside.

4 Learned counsel for the opposite party-wife fairly admitted the fact that in the proceeding of maintenance case, notice has been served upon the brother of the petitioner, namely Sajid. He also admitted the fact that the wife has not filed any application with regard to the jointness of petitioner and Sajid.

5 Considering the above submission made by both the counsel, it is established that, without getting any application for jointness, the learned Principal Judge, Family Court arrived on the conclusion that the notice has been duly served upon the petitioner



which has actually been served upon his brother Sajid. The finding recorded by the learned Principal Judge, Family Court is not in accordance with law.

6 Since the petitioner has not been duly served in the maintenance case, therefore, on this ground alone, the impugned order is liable to be set aside. Accordingly, the impugned order dated 08.09.2023 is set aside.

7 The matter is remitted back to the concerned Principal Judge, Family Court to decide the maintenance case afresh after giving reasonable opportunity of hearing to both the parties.

8 Both the parties are directed to remain present before the learned Principal Judge, Family Court on 28.10.2024.

9 The learned Principal Judge, Family Court is further directed that the maintenance case be decided as early as possible preferably within a period of one year from 28.10.2024.

10 With these observations and directions, this revision petition is allowed.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.09.2024
Transmission Date	25.09.2024

