

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.373 of 2021**

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

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Deepak Kumar Jha @ Gulshan Son of Sri Bachnu Jha Resident of Village- Parsauni, Tola, Nav Toli, Police Station- Bisphi, District- Madhubani.

... .. Petitioner/s

Versus

PINKI JHA Daughter of Sri Tej Narayan Jha Advocate, Katihar, resident of Mohalla- Gami Tola, Near Hardayal Talkies, P.S.- Katihar, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Advocate
For the State	:	Mr. Rajiv Kumar Singh, A.P.P.
For the O.P.	:	Mr. Pankaj Kumar Sinha, Advocate
		Mr. Raunak Kumar Singh Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 09-04-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The instant revision is directed against an ex-parte order of granting maintenance allowance in Maintenance Case No.83 of 2019 on 20.01.2021 by the learned Additional Principal Judge, Family Court, Katihar whereby and whereunder the learned Trial Judge directed the petitioner to pay maintenance at the rate of Rs.15,000/- per month from the date of filing of the application under Section 125 of the Cr.P.C.

3. It is not in dispute that the petitioner/husband received the notice of Maintenance Case No.83 of 2019 and he duly appeared before the Trial Court to contest the case he filed



an application for show cause through his learned advocate. Subsequently, however, the petitioner did not appear before the Trial Court and ex-parte order was passed granting maintenance allowance at the rate of Rs.15,000/- per month in favour of the opposite party on 20.01.2021.

4. It is contended on behalf of the present petitioner that the father of the opposite party is a practicing advocate of Katihar Civil Court. He influenced the learned Members of Karihar Bar so that the petitioner might not be represented before the Trial Court. In support of his contention he refers to the averment made by the petitioner in Para-9 and 10. When the petitioner was not getting legal assistance he filed an application on 10.01.2020 in the Trial Court for rejection of the order of ex-parte hearing of the maintenance case. However, the petitioner did not get any advocate to move the said petition. Accordingly, the said petition was rejected and an ex-parte order was passed on 20.01.2021. It is also submitted by the learned advocate for the petitioner referring to para-10 of his petition that the condition in Katihar Court was such that one Mr. Baidya Nath Das who was previously represented the petitioner in connection with an application for anticipatory bail, became an advocate for the petitioner in Maintenance Case No.83 of 2019 without



following the necessary principle and ethics of an advocate and in complete derogation of the relevant provisions of the Advocates Act.

5. It is found from the record that the opposite party did not deny such factual circumstance by filing any counter affidavit. Thus, this Court is of the view that the petitioner has been able to establish that he did not get any assistance of any advocate of Katihar Civil Court Bar Association.

6. Considering such circumstances, the ex-parte order is liable to be set aside.

7. The petitioner is directed to appear before this Court either personally or through his advocate to contest Maintenance Case No.83 of 2019, if he is prevented by any member of the Local Bar, the learned Trial Judge is at liberty to give all protection which a party and the witness is entitled to get under the guidelines of the Hon'ble Supreme Court regarding "witness protection". If the petitioner does not get any assistance of an advocate, he will approach the Secretary, District Legal Services Authority to appoint an advocate on his behalf and such advocate shall represent the petitioner.

8. With the above direction, the impugned order is set aside and the learned Trial Judge is directed to re-hear the



matter and pass order after giving notice to the parties within three months from the date of this order.

9. In the meantime, without prejudice, the petitioner is directed to pay Rs.5,000/- per month towards interim maintenance to the opposite party till the disposal of Maintenance Case No.83 of 2019 from the date of this order.

10. Accordingly, the present revision application stands disposed of.

(Bibek Chaudhuri, J)

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