

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.248 of 2023

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

MD. IFTEKHAR ALAM SON OF MD. YASIN @ YASIN Resident of
Village- Mehda Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.

... .. Petitioner/s

Versus

1. SHABNAM PRAVEEN W/O MD. IFTAKHAR ALAM Resident of Village-
Mehda Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.
2. MD. DANISH S/O MD. IFTEKHAR ALAM Resident of Village- Mehda
Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.
3. MD. SAKLEN MUSTAQUE S/O MD. IFTEKHAR ALAM Resident of
Village- Mehda Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.
4. SADAF KHATOON D/O MD. IFTEKHAR ALAM Resident of Village-
Mehda Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.
5. SAFIA KHATOON D/O MD. IFTEKHAR ALAM Resident of Village-
Mehda Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.
6. MD. SUFIYAN S/O MD. IFTEKHAR ALAM Resident of Village- Mehda
Shahpur, P.S.- Cheria Bariarpur, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Md. Hussamuddin Azad
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 06-12-2024

Heard.

2. This revision petition has preferred by the petitioner being aggrieved with the order dated 06.12.2022 passed by the Principal Judge, Family Court, Begusarai in connection with Maintenance Case No. 12 of 2018, whereby and whereunder the learned Family Court allowed the application filed under Section 125 Cr. P.C. filed by the opposite party/wife and directed the petitioner to pay a monthly



maintenance of Rs. 3,000/-, 1000/-, 1000/-, 1000/-, 1000/- and Rs. 1000/- respectively in favour of the opposite party nos. 2 to 6 from the date of submission of the application under Section 125 of Cr. P.C. i.e. 17.02.2018.

3. Undisputedly, opposite party no.1 is the legally wedded wife of the petitioner and opposite party nos. 2 to 6 are the legitimate children of the petitioner. Perusal of the impugned order further shows that it has also been admitted by the petitioner himself before the Family Court that he got his second marriage and from his second marriage, there are five more children born. It is also admitted fact that the petitioner is a Government Teacher.

4. Learned counsel for the petitioner submits that without giving any opportunity of hearing and adducing the evidence, the learned Family Court passed the order and directed the petitioner to pay monthly maintenance of total Rs. 8,000/- to the opposite parties/wife and children. According to the learned counsel for the petitioner, all the children are residing with petitioner himself and they are maintained by the petitioner. Therefore, they are not entitled to get any maintenance from the petitioner. With regard to the opposite party no. 1 is concerned, according to the counsel, she is also



residing in one room in the house of the petitioner and she is also maintained by the petitioner, therefore, she is also not entitled to get any maintenance.

5. Perusal of the impugned order clearly shows that on 27.08.2019, the petitioner filed his written statement before the Family Court wherein it is categorically admitted that he performed his second marriage with any other lady and out of his second wife, there are five children born. Perusal of paragraph no.4 of the impugned order further shows that the petitioner before the Family Court has not adduced any evidence, however, his counsel was present at the time of final argument and he made his final submission before the Family Court. Therefore, the contention raised by the counsel for the petitioner is that the petitioner has not been given any opportunity of hearing before the Family Court and the Family Court has passed the *ex parte* order, is not sustainable.

6. Since the opposite party no.1 is the legally wedded wife of the petitioner and all the other respondents of the legitimate children of the petitioner and according to the evidence adduced by the opposite party/wife, they are residing separately from the petitioner and they are unable to maintain themselves and the petitioner, who is a Government Teacher, is



not maintaining them.

7. The above evidence adduced by the opposite party/wife has not been duly rebutted by the petitioner.

8. Considering the entire evidence adduced by the opposite party/wife and further considering the monthly income of the petitioner, in the considered view of this Court also, the Family Court has rightly allowed the application filed under Section 125 Cr. P.C. in favour of the respondents and the award of maintenance is also appears to be just and proper. I do not find any merit in the revision petition preferred by the petitioner. Therefore, the revision petition is dismissed, having no merit.

9. However, petitioner is at liberty to make an application before the Family Court under Section 127 of the Cr. P.C. for modification or alteration of the order dated 06.12.2022, if the opposite party nos. 2 to 6 are residing with him and he is maintaining them.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2024
Transmission Date	06.12.2024

