

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.343 of 2024

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

Md. Isrul @ Isrul Son of Late Md. Qurban Resident of village - Kajleta, P.S.-
Jokihat, District - Araria

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Bibi Mehnaj Daughter of Matiful W/o Md. Isrul @ Isrul, R/o village -
Domaria, Ward No.- 3, P.S.- Palasi, District - Araria

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md Naushaduzzoha
For the Respondent/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

6 02-12-2024 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. This revision petition has been preferred by the petitioner being aggrieved with the order dated 12.04.2023 passed by learned Principal Judge, Family Court, Araria in Maintenance Case No. 488/2019, whereby and whereunder the learned Family Court allowed the application filed under Section 125 of Cr.P.C. by O.P-wife and directed to the petitioner to pay a monthly maintenance of Rs. 6,000/-(Six thousand) to the O.P-wife from the date of submission of application i.e. on 20.12.2019.

3. The learned for the petitioner would submit that in this case learned Family Court without valid service of notice



declared the petitioner *ex-parte* and thereafter, passed the *ex-parte* order directing him for payment of maintenance. Since the notice has not been duly served upon the petitioner, the impugned order is liable to be set aside.

4. Learned counsel for O.P.-wife opposes the argument raised by the counsel for the petitioner.

5. Heard both the parties and perused the entire order-sheets as well as other documents of the concerned maintenance case, which have been summoned from Family Court.

6. Perusal of the order-sheets shows that after submission of the application under Section 125 of Cr.P.C in the year of 2019 and 2020, no proceeding was conducted by the trial Court as there was a Covid Pandemic present at that period. Order-sheets further shows that on 05.02.2020 process fee has been deposited by the O.P.-wife for issuance of registered notice to the petitioner herein. In the said notice which has been sent through registered post was returned back to the Family Court which was received unserved with the report that recipient was not found present in the house when the concerned official of post-office went to the address given in the said envelope. Suddenly, on 08.09.2021 i.e. more than one and half year from the submission of process fee, the Family Court arrived on the



conclusion that petitioner herein is not present, though notice has been duly served upon him through registered post.

7. The above finding recorded by the Family Court is contrary to the record of the Family Court itself. Since the petitioner has not been duly served, the impugned order which is an *ex-parte* order is liable for set aside on this ground only.

8. Accordingly, the impugned order dated 12.04.2023 is set aside. The matter is remitted back to the concerned Family Court to decide the matter afresh after providing duly opportunity of hearing to both the parties.

9. Both the parties are directed to remain present before the concerned Family Court positively on 10th of February, 2025. Since this matter is of 2019., it is expected that the Family Court will decide the case accordance with relevant rules and law as early as possible positively within one year from today.

10. Record of the Family Court be sent back along with a copy of this order to the concerned Court.

(Arvind Singh Chandel , J)

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