

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.427 of 2023**

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

SARWAR ALAM @ MD. SARBARE ALAM son of Md. Wajir Village-
Chahatpur Ward No-12, Ps- Palasi Dist- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Halima Khatun wife of Sarwar Alam @ Md. Sarbare Alam, D/o- Md. Waris
Village- Chahatpur Ward no-12 P/A- Mohaniyan P)s- Palasi Dist-Araria

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Madhav Jha, Advocate
For the Respondent/s : Mr.Anil Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER**

3 19-07-2024 Heard both parties.

2. This revision petition has been preferred by the petitioner/ husband of opposite party being aggrieved with the judgment dated 01.11.2022 passed by Principal Judge, Family Court, Araria in Maintenance Case No. 50/2022 whereby and whereunder the learned Family Court while allowing the application filed by the opposite party under Section 127 Cr.P.C. directed the petitioner to pay a monthly maintenance of Rs. 6,000/- to her from the date of submission of application.

3. It is submitted by learned counsel for the petitioner that the impugned order has been passed by the learned Family Court without giving any opportunity of hearing to the



petitioner and hence, passed the *ex parte* order.

4. Learned counsel submits that the O.P. before the learned Family Court was not able to establish any income of the petitioner. In spite of that, the learned Family Court passed the impugned order and directed the petitioner to pay a monthly maintenance of Rs. 6,000/-. Therefore, on these grounds the impugned order is liable to be set aside.

5. A bare perusal of the impugned order clearly shows that on 17.04.2022, petitioner himself received the summon/ notice issued by the Family Court. In spite of that, he did not appear before the learned Family Court. Therefore, the learned Family Court after recording the *ex parte* evidence of the opposite party, passed the impugned order. Thus, the submission made by learned counsel for the petitioner that the petitioner was not provided any sufficient opportunity of hearing is not acceptable.

6. On the basis of the evidence available on record, learned Family Court arrived on the conclusion that the opposite party is the legally wedded wife of the petitioner and is residing separately with sufficient cause. The impugned order further shows that no documentary evidence has been produced by the opposite party with regard to the income of the petitioner.



However, considering the fact that the petitioner is a healthy person and is able to earn, the learned Family Court passed the said order and directed the petitioner to pay a monthly maintenance of Rs. 6,000/- which appears to be just and proper.

7. In view of the order passed by the learned Family Court and in accordance with the evidence available on record, I do not find any merit in this revision petition.

8. Hence, this petition is dismissed at this stage itself.

(Arvind Singh Chandel , J)

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