

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.839 of 2019**

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

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Ravikant Bharti S/o Chhathu Ravidas Resident of Rashtriya Ganj, Near Station Road, P.S.- Phulwarisharif, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Nisha Kumari D/o Mahesh Prasad Gupta Resident of Urdu Bazaar, Near C.M. College, Lal Bagh, Milan Chowk, P.S.- Laheriya Sarai, District- Darbhanga

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Surya Swetabh, Advocate  
For the Respondent/s : Mr. Rajendra Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

5      31-01-2024                      Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. In the instant revision the petitioner has challenged an order dated 26.04.2019 passed by the learned Additional Session Judge-XVII, Patna in Criminal Appeal No.147 of 2017 affirming an order dated 17.04.2017 passed by the learned Sub-Judge-XIV-cum-A.C.J.M., Patna in Domestic Violence Case No.24 of 2016, whereby the petitioner has been directed to pay to the opposite party no.2 an amount of Rs.5,000/- per month as interim maintenance alongwith one time litigation cost of Rs.10,000/-.

3. The petitioner is aggrieved by the impugned order because of the fact that according to the petitioner there was no



marriage between him and the opposite party no.2 at any point of time as well as there was no domestic relationship between them.

4. At the time of passing an interim order of monitory relief, the Trial Court is under obligation to look into the affidavit filed by the petitioner/husband. At the time of final hearing of the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, the contention of the petitioner shall be adjudicated upon. Since it is the specific case of the petitioner that the opposite party no.2 is not a legally married wife of him and neither was there any domestic relationship between them. The instant revision is disposed of directing the learned Magistrate to formulate the issue as a preliminary issue and decide the issue on the basis of evidence, if any, that may be adduced by the part is before the Trial Court. Since, the petitioner cannot obligated to go on paying interim monitory relief for an unlimited period, the learned Magistrate is directed to decide the above mentioned issue within three months from the date of communication of this order.

5. Accordingly, the instant revision application is thus, disposed of.

**(Bibek Chaudhuri, J)**

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