

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.488 of 2023**

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

MD. SAKIM Son of Md. Lokman Resident of village - Chhatiya, P.O. -
Bhargama, P.S. - Ranipatra, Distt. - Purnea

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nusrat Khatoon Wife of Md. Sakim D/o Md. Islam, Resident of village -
Raniganj (Dokhara), P.S. - Kadwa, P.O. - Sonali, Distt. - Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Viveka Nand Singh
For the Respondent/s	:	Mr. Narendra Kumar Singh

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

Date : 26-11-2024

With the consent of both the counsels heard
finally.

2. This revision petition has been preferred by the petitioner (husband) being aggrieved with the *ex parte* judgment and order dated 20.03.2023 passed by the learned Additional Principal Judge, Family Court, Katihar in Maintenance Case No. 25 of 2021, whereby and whereunder the learned Family Court allowed the application filed by the opposite party no. 2 under Section 125 of the Code of Criminal Procedure and directed the petitioner to pay monthly maintenance amount of Rs. 2000/- from 01.02.2021 to 31.12.2022 and further directed



to pay monthly maintenance amount of Rs. 4,000/- from 01.01.2023.

3. Learned counsel for the petitioner submits that without any valid service of notice, the learned Family Court arrived at the conclusion that notice has been duly served upon the petitioner herein and declared him *ex parte* and passed the *ex parte* order directing him to pay monthly maintenance as mentioned hereinabove. Therefore, on this ground only, the impugned order is liable to be set aside.

4. Perusal of the order sheets of the concerned maintenance case shows that on 08.05.2022, the Family Court arrived at the conclusion that the notice, which has been sent through registered post, has been duly served upon the petitioner and declared him an *ex parte*, as he was not present on the date of hearing i.e. 05.10.2022 and subsequently, after recording the *ex parte* evidence passed the final order dated 20.03.2023.

5. The envelopes, which has been sent to the petitioner through registered post is also annexed with the record of the Family Court, which shows that at the time of service of the said notice, the petitioner was not present in his house and nobody has accepted the said envelopes. Thus, the finding of the Family Court that the petitioner has been duly



served is not in accordance with the evidence available on record itself. Therefore, on this ground only, the impugned order is liable to be set aside, as the notice has not been duly served to the petitioner and he has not been given reasonable opportunity of hearing of this case.

6. Accordingly, the impugned order dated 20.03.2023 passed by the Additional Principal Judge, Family Court, Katihar in Maintenance Case No. 25 of 2021 is, hereby, set aside. The matter is remitted back to the concerned Family Court for deciding afresh in accordance with relevant rules and law. The Family Court is further directed to decide the said maintenance case as early as possible preferably within a period of one year from today.

7. Both the parties are also directed to remain present in the concerned Family Court on 16.01.2025. The record of the Family Court along with a copy of this order be sent back for needful.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2024
Transmission Date	28.11.2024

