

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.943 of 2016

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Alok Kumar Priyadarshi @ Sudhir Kumar, Son of Yadunandan Singh,
Resident of Mohalla Lohiya Nagar, P.O. Sahridaya Nagar, Police Station
Town, Ward No. 26, District Begusarai at present Alok Kumar Priyadarshi,
Head Quarter East Central Railway, Barauni Junction, District Begusarai.

... .. Petitioner

Versus

1. State Of Bihar.
2. Neelam Sharan @ Kumari Neelam, Daughter of Late Mahesh Prasad, Wife
of Alok Kumar Priyadarshi @ Sudhir Kumar Singh, at present residing of
Village- Jagdishpur, Police Station- Manihari, District- Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner	:	M/S. Viveka Nand Singh and Hira Jha, Advocates
For the Respondent No.2:	:	None.
For the State	:	Mr. Gauri Shankar Gupta, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

13 02-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State. However, no body appears for the
respondent no. 2, despite service of notice on her through paper
publication.

2. This revision application has been preferred by the
petitioner (husband) being aggrieved with the *ex-parte* order
dated 09.06.2016, passed by the learned Principal Judge, Family
Court, Muzaffarpur, in Maintenance Case No. 225 of 2013,
whereby and whereunder the learned Principal Judge, Family
Court, Muzaffarpur, 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 Rs. 5,000/- per month for the maintenance of the opposite party no. 2 by 10th of each succeeding month and the order of paying maintenance will be effective from the date of order i.e., from 09.06.2016.

3. Learned counsel for the petitioner submits that on 20.02.2014, the application dated 10.09.2013 filed by the opposite party no. 2 under Section 125 of the Cr.P.C., was admitted for hearing by the learned Principal Judge, Family Court, Muzaffarpur, and the notice was issued on 21.06.2014 to the petitioner by the office through post for his appearance. It is further submitted that the notice was never served or received by the petitioner and on 17.11.2014 the learned Principal Judge, Family Court, Muzaffarpur, without any valid service of notice, arrived at the conclusion that the notice has been served on the petitioner herein and put up the case for ex-parte evidence and examined Neelam Sharan @ Kumari Neelam, the opposite party no. 2 as A.W. 1 on oath on 09.01.2015, Punam Bharti, the sister of the opposite party no. 2 as A.W. 2 on 09.03.2015 and Reshma Sharan, the mother of the opposite party no. 2 as A.W. 3 on 09.10.2013 ex-parte and passed the *ex-parte* final order on 09.06.2016 and directed the petitioner to pay monthly



maintenance as mentioned hereinabove. Therefore, on this ground only, the impugned order dated 09.06.2016 is liable to be set aside.

4. On perusal of the order sheets of the concerned maintenance case shows that on 17.11.2014, the learned Principal Judge, Family Court, Muzaffarpur arrived at the conclusion that the notice, which has been sent through Nazarat and 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 and subsequently, after recording the ex-parte evidence passed the final order on 09.06.2016.

5. Considering the aforesaid facts and circumstances of the case, the finding of the learned Principal Judge, Family Court, Muzaffarpur, that the petitioner has been duly served is not in accordance with the evidence available on the 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 09.06.2016, passed by the learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 225 of 2013 is, hereby,



set aside. The matter is remitted back to the learned Principal Judge, Family Court, Muzaffarpur for deciding afresh in accordance with relevant rules and law. The learned Principal Judge, Family Court, Muzaffarpur, is further directed to decide the said maintenance case as early as possible preferably within a period of one year from today.

(Chandra Prakash Singh, J)

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