

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.494 of 2023

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

NAGESHWAR SINGH S/o Ganesh Singh @ Surendra Singh R/o Village
Chaubey Tola, P.S. Chanpatiya Dist. West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. RUCHI DEVI W/o Nageshwar Singh, D/o Bachcha Singh At present R/o
Village Parsauna, P.S. Ramgarhawa, Dist.- E. Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2
For the Respondent/s : Mr.Mithlesh Kumar Khare

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

6 11-11-2024 With consent of both the parties, heard finally.

2. This revision petition has been preferred by the petitioner-husband being aggrieved with the order dated 15.05.2023 passed by learned Principal Judge, West Champaran, Bettiah in Maintenance Case No. 169/2018 whereby and whereunder the learned Family Court allowed the application filed under Section 125 Cr.P.C. filed by O.P.-wife and directed the petitioner to pay the O.P.-wife monthly maintenance of Rs. 5,000/- and Rs. 2,500/- to her daughter i.e. total Rs. 7,500/- per month from the date of filing of the application i.e. 21.06.2018.

3. Learned counsel for the petitioner would submit that without any valid service of notice, the learned Family



Court declared the petitioner ex-parte and after recording the ex-parte, evidence of the O.P.-wife passed the ex-parte order dated 15.05.2023. Since the petitioner has not duly served in any manner, therefore, on this ground only the impugned order is liable to be set aside.

4. Learned counsel for the O.P.-wife opposed the argument raised by learned counsel for the petitioner and submits that after duly service of notice, the petitioner was not present before the learned Family Court, then only the learned Family Court declared the petitioner ex-parte and passed the ex-parte order.

5. Heard both sides, perused the impugned order as well as entire order sheets of the concerned maintenance case.

6. Perusal of the order sheet dated 10.02.2020 clearly shows that notice has been sent to the petitioner through Nazarat was received with report that the petitioner is absconded from his house, the notice which was sent to the petitioner through registered mode is also received with a report that the petitioner is not residing in his house. Since both the service reports clearly shows that the petitioner has absconded and was not residing in the house at the time of service of notice, despite of that the learned Family Court arrived on the conclusion that the



petitioner has been served the notice and the learned Family Court declared him ex-parte and passed the ex-parte order.

7. Since the order sheet dated 10.02.2020 clearly shows that without any valid service of notice, the petitioner has been declared ex-parte, therefore, on this ground only the impugned order is liable to be set aside.

8. Accordingly, the order dated 15.05.2023 is set aside and let the matter be sent to the learned Family Court for retrial of the said maintenance case. Both the parties are directed to remain present before the learned Family Court on 10.12.2024.

9. Let a copy of this order be communicated to the learned Family Court, West Champaran, Bettiah to do the needful further.

(Arvind Singh Chandel , J)

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