

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.599 of 2023

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

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ABDUL RAHMAN S/O LATE MD. HAROON R/O VILLAGE- BAHERA
TOLA, KAZIYANA SHEIKH TOLE, PS. BAHERA, DIST. DARBHANGA

... .. Petitioner/s

Versus

1. MUSRAT PRAVEEN W/O ABDUL RAHMAN, (D/O LATE MD. SUAHIL) R/O VILLAGE- NAZARA MUHMADA KACHHARI TOLA, P.O. AND PS. MANIGACHI, DIST. DARBHANGA
2. MD. MUNAZIR S/O MD. HAROON @ KARAILA R/O VILLAGE- NAZARA KACHHARI TOLA, PO AND PS. MANIGACHI, DIST. DARBHANGA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar
For the Respondent/s : Mr. Girish Chandra Jha

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 25-09-2024

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. Perused the impugned order as well as the
entire records of the Trial Court.

3. This revision petition has been preferred by
the petitioner-husband being aggrieved with the order dated
11.11.2016 passed by the Principal Judge, Family Court,
Darbhanga in Maintenance Case No. 163 of 2014, whereby and
whereunder the Family Court allowed the application of the



Opposite Party no.1 filed under Section 125 of the Cr. P.C. and directed the petitioner-applicant to pay monthly maintenance of Rs. 1500/- per month to the opposite party no.1/wife.

4. Learned counsel for the petitioner submits that the impugned order dated 11.11.2016 is an *ex parte* order passed by the Family Court against the petitioner. According to the learned counsel, without any valid service of notice, the learned Family Court wrongly arrived at the conclusion that the petitioner herein has been duly served and passed the impugned order *ex parte*. Therefore, on this ground only, the impugned order is liable to be set aside.

5. Perusal of the impugned order as well as the record of the Family Court clearly shows that the maintenance order which has been passed by the Family Court is an *ex parte* order. In paragraph no. 3 of the impugned order as well as the order-sheet dated 29.10.2015, it has been mentioned by the learned Principal Judge, Family Court that notice has been duly served to the petitioner through Speed Post.

6. Perusal of the application under Section 125 of the Cr. P.C. clearly shows that in the cause title, the present address of the respondent therein i.e. petitioner herein is mentioned as Village Bahera Kajiyana Shekh Tolla, P.O.



Kajiyanabhaya Bahera, District Darbhanga and in paragraph no.8 of the said maintenance application, the opposite party/wife herself pleaded that the petitioner herein is working at Kolkatta. Thus, according to the pleadings, it is well established that at the time of filing of the application under Section 125 Cr. P.C., the petitioner herein was residing at Kolkatta. The notice which has been sent to the petitioner through Speed Post is also annexed with the record of the Lower Court shows that it has been sent to the petitioner to his address of District Darbhanga not Kolkatta. Therefore, the finding recorded by the Family Court that the notice duly served to the petitioner is not in accordance with the materials available on record. Therefore, on this ground only, the impugned order is liable to be set aside.

7. Accordingly, the petition is allowed and the impugned order dated 11.11.2016 passed by the learned Principal Judge, Family Court, Darbhanga is, hereby, set aside.

8. The matter is remitted back to the concerned Family Court to decide the maintenance case afresh after giving reasonable opportunity of hearing of both the parties. Since, it is an old matter, learned Family Court is expected to decide the said maintenance case as early as possible preferably within a period of one year from today. Both the parties are further



directed to remain present before the concerned Family Court
on 28.10.2024.

9. With the above observation and direction, this
revision petition is disposed of.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2024
Transmission Date	27.09.2024

