

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1116 of 2019

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

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BABULAL YADAV @ BHARAT YADAV @ BHARAT LAL YADAV, Son of Jhagrh Yadav, Resident of Village- Raje Bigha, P.S.- Pakribarawan, District- Nawada, At present posted at Godwon No.8, F.C.I., Durgapur, P.O. and P.S.- Durgapur, District-Durgapur (West Bengal)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sumitra Devi @ Mala Devi Wife of Babulal Yadav @ Bharat Yadav @ Bharat Lal Yadav Resident of Village- Raje Bigha, P.S.- Pakribarawan, District- Nawada, At present resident of Godown No. 8, F.C.I, Durgapur, P.O. and P.S.- Durgapur, District- Durgapur (West Bengal). D/o Sri Sukan Yadav, Resident of Village- Sohssinghani, P.O. Mathurapur, P.S.- Sikandra, District- Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Kashyap, Advocate
For the OP No. 2	:	Mr. Satyam Pd Sinha, Advocate
		Mr. Anil Kumar Sinha, Advocate
For the State	:	Mr. Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 28-02-2024

The instant revision is directed against an order dated 13.02.2018, passed by the learned Principal Judge, Family Court, Nawada in Maintenance Case No. 69 of 2015.

2. The petitioner is the husband of the the opposite party. The opposite party filed an application under Section 125 of the CrPC, praying for maintenance before the learned Principal Judge, Family Court at Nawada.

3. The said application was heard *ex parte* and the



trial court passed an order directing the petitioner to pay the maintenance at the rate of Rs. 10,000/- per month.

4. The aforesaid order is under challenge in the instant revision by the opposite party of the revisional application /petitioner herein.

5. At the outset, the learned advocate for the petitioner submits that the petitioner did not get any notice of the proceeding being Maintenance Case No. 69 of 2015 and the said proceeding was disposed of *ex parte*. As the petitioner did not get any notice, the *ex parte* order should be set aside and the petitioner may be given an opportunity to contest the case. It is also submitted by the learned advocate for the petitioner that the opposite party all alone use to stay at her matrimonial home. The petitioner use to work in the Food Supply Corporation, Durgapur, therefore, he had to stay in Durgapur. He never refused or neglected his wife to maintain, in spite of that the petitioner filed the application under Section 125 of the CrPC, a case under Section 498A of the IPC and has been harassing him by filing legal proceedings one after another. Therefore, the petitioner is not under obligation to pay any maintenance to the opposite party.

6. The learned advocate on behalf of the opposite



party has raised vehement objection against the submission made by the learned advocate for the petitioner. He has referred to paragraph no. 4 of the impugned order where the learned Judge has recorded that notice of the proceeding under Section 125 of the CrPC was passed both through the registered post as well as through the process server. As the said notice could not be served, a paper publication and gadget notification was made directing the opposite party to appear before this Court. After paper publication, when the petitioner failed to appear before the Court, the case was taken for hearing *ex parte*.

7. It is not in dispute that the petitioner was an employee of Food Corporation of India in Durgapur. It is submitted by the learned advocate for the petitioner that the petitioner has retired from service. Even assuming that the petitioner is a retired employee of Food Corporation of India, he gets handsome pension from his employer.

8. Considering the present day market price of the essential amenities of life and the status of the parties, this Court is of the view that maintenance of Rs. 10,000/- per month is just and proper. Therefore, I do not find any ground to spill in over the impugned order dated 13th February 2018.

9. Accordingly, the impugned order is affirmed. The



instant revision is, therefore, dismissed accordingly.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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