

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.659 of 2023

Arising Out of PS. Case No.-60 Year-2019 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. MD. ANWAR @ ANBAR SEKH @ MD. ANBAR SON OF MD. TALIM SHEKH RESIDENT OF VILLAGE- MITHILA DEEP, PS- JHANJHARPUR, DIST- MADHUBANI
 2. MD. ALEMIN SON OF MD. ANWAR RESIDENT OF VILLAGE- MITHILA DEEP, PS- JHANJHARPUR, DISTT- MADHUBANI AT PRESENT RESIDING WITH HER FATHER NAMELY MD. SALAUDDIN, RESIDENT OF VILLAGE- MOHAN BADIYAM, PS- SAKARI, DISTT- MADHUBANI
 3. SANA PARWIN DAUGHTER OF MD. ANWAR RESIDENT OF VILLAGE- MITHILA DEEP, PS- JHANJHARPUR, DISTT- MADHUBANI AT PRESENT RESIDING WITH HER FATHER NAMELY MD. SALAUDDIN, RESIDENT OF VILLAGE- MOHAN BADIYAM, PS- SAKARI, DISTT- MADHUBANI

... .. Petitioner/s

Versus

RASHIDA KHATUN WIFE OF MD. ANWAR RESIDENT OF VILLAGE- MITHILA DEEP, PS- JHANJHARPUR, DISTT- MADHUBANI AT PRESENT RESIDING WITH HER FATHER NAMELY MD. SALAUDDIN, RESIDENT OF VILLAGE- MOHAN BADIYAM, PS- SAKARI, DISTT- MADHUBANI

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramchandra Jha Raman
For the Respondent/O.P. : Mr. Shailendra Kumar Jha

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 06-12-2024

Heard learned counsel for the petitioner as well as
opposite party/wife.

2. This revision petition has been preferred being
aggrieved with the order dated 28.04.2023 passed by the learned
Principal Judge, Family Court, Madhubani in M.R. Case No. 60



of 2019 whereby and whereunder, the Family Court allowed the application filed by the opposite party no. 02 under Section 125 of Cr.P.C. and directed the petitioner to pay monthly maintenance of Rs. 8000/- to O.P./ Wife and her two children from the date of order i.e. 28.04.2023.

3. It is submitted by learned counsel for the petitioner that the Family Court passed the impugned order *ex-parte*. According to the counsel, notice was served upon the petitioner and the petitioner has been declared served only on the basis of paper publication dated 01.10.2019. It is also submitted by counsel for the petitioner that he was working at Delhi but, the summon which has been published through paper publication was not circulated in Delhi. The said notice was circulated only in local newspaper in Bihar. However, petitioner was not aware about the case pending before the court. Therefore, on this ground only the impugned order is liable to be set aside.

4. Learned counsel for the O.P./Wife opposes the prayer made by the counsel for the petitioner and submits that petitioner was aware of the proceeding pending before the Family Court and has not appeared before the Family Court without any reason. Therefore, the Family Court rightly passed



the order of maintenance against him.

5. Heard.

6. Perused the impugned order as well as gone through the entire records of the Family Court.

7. The order sheet of the Family Court reveals that without any service of notice to the petitioner, the Family Court on the basis of the application submitted by the O.P. / Wife passed the order for issuance of summon to the petitioner through paper publication. The record further shows that the notice has been published in the local newspaper namely Prabhat Khabar dated 01.10.2019.

8. Perusal of the application under Section 125 Cr.P.C. clearly shows that in the application itself, the O.P./Wife mentioned the fact that the petitioner is working in Delhi. Therefore, the learned Court ought to direct to publish the notice in the paper which was circulated in Delhi. Thus, it is well established that notice has not been duly served, therefore, on this ground the impugned order dated 28.04.2023 is set aside.

9. The matter is remitted back to the concerned Family Court to decide the matter afresh after giving appropriate opportunity of hearing to both the parties. Both the parties are also directed to appear before the concerned Family



Court on 27.02.2025.

10. Since, the entire matter is of the year 2019, it is expected that the concerned Family Court will decide the matter as early as possible preferably within one year from today.

11. The records of the Trial Court along with the copy of this Order be sent to the concerned court below to do the needful.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-01-2025
Transmission Date	03-01-2025

