

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.696 of 2023

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

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Kamlesh Kumar @ Kamlesh Sah Son Of Radhe Kant Prasad Resident Of
Village - Manguarha, P.S. - Chiraiya, District - East Champaran

... .. Petitioner/S

Versus

Poonam Kumari Wife Of Kamlesh Kumar @ Kamlesh Sah, D/O. Laxmi
Prasad Resident Of Village - Bijwani, P.S. - Jitna, District - East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliari, Adv.
For the Respondent/s : Mr. Abhishek Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

6 01-10-2024 With the consent of both the parties, heard finally.

2. This revision petition has been preferred by the petitioner-husband being aggrieved with the order dated 07.04.2022 passed by the Learned Principal Judge, Family Court, East Champaran, Motihari in Maintenance Case No. 148 of 2018, whereby and whereunder, the learned Family Court allowed the application of O.P. - Wife filed under Section 125 of Cr.P.C. and directed the petitioner to pay a monthly maintenance amount of Rs. 7,000/- to the O.P.-Wife and Rs. 1,000/- to her minor daughter i.e. total Rs. 8,000/- from the date of filing of the maintenance case i.e. 08.05.2018.

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



arrived on the conclusion that the notice has been duly served upon the petitioner and passed an ex-parte order of maintenance against the petitioner. Therefore, on this ground only the impugned order dated 07.04.2022 is liable to be set aside.

4. Learned counsel for the O.P. - Wife opposes the argument raised by the counsel for the petitioner.

5. Heard both the counsels, perused the record of the court below.

6. On perusing the order-sheets of the concerned maintenance case it clearly shows that though notice have been issued to the petitioner herein i.e. O.P. of the said maintenance case but none of the notice which has been sent to him has been returned back to the Family Court served or unserved. Thus, it is clear that no notice has been duly served upon the petitioner and the Family Court mentioning the fact that notice has been duly served passed an ex-parte order. The above finding recorded by the Family Court that the notice has been duly served, is not in accordance with the record of the Family Court. Therefore, on this ground only this revision petition is allowed.

7. The impugned order dated 07.04.2022 is set aside. The matter is remitted back to the Family Court to decide the said maintenance case afresh giving equal opportunity of



hearing to both the parties. Since, it is a matter of 2018 therefore, it is instructed that the Family Court will decide the maintenance case as early as possible probably within one year from today. Both the parties are further directed to be remain present before the Family Court on 08.10.2024.

8. Accordingly, this revision petition is disposed of.

(Arvind Singh Chandel , J)

Siddharth Soni/-

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