

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 736 of 2023

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

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Bablu Kumar Jha @ Babalu Kumar son of Vijandar Jha Village- Tharbitiya
PS- Phulphras Dist- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nisha Devi D/o- Mohan Jha Village- Tharbitiya PS- Phulphras Dist-
Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Sumit Kumar Jha, Advocate
For the Respondent/s : Mr. Tapeswar Sharma

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 19-07-2024

Heard both the counsel for the parties. Perused the
impugned order and other materials available on record.

2 This petition has been preferred by the petitioner-
husband of Opposite Party No 2 being aggrieved with the order
dated 25.04.2023 passed by the learned Principal Judge, Family
Court, Madhubani in MR No 36 of 2020/CIS No 36 of 2020
whereby and whereunder the learned Principal Judge, Family
Court, while allowing the application submitted under Section 125
of Criminal Procedure Code by Opposite Party No 2, directed the
petitioner to pay a monthly maintenance of Rs 10,000/- to
Opposite Party No 2-wife.



3 Learned counsel for the petitioner submits that the learned Principal Judge, Family Court passed the impugned order ex parte without giving any reasonable opportunity of hearing to the petitioner. He further submits that there is no documentary evidence available on record which shows that the petitioner is doing a private job and getting a monthly income of Rs 40,000/-. In spite of that the learned Principal Judge, Family Court wrongly arrived at the conclusion that the petitioner is getting monthly salary of Rs 40,000/- and passed the order of maintenance of Rs 10,000/-. Lastly, he submits that undisputedly, the petitioner is husband of Opposite Party No 2 and he is ready to pay reasonable maintenance amount. Therefore, looking to the financial status of the petitioner, the maintenance amount awarded by the learned Principal Judge, Family Court may be reduced to some extent.

4 Learned counsel for Opposite Party No 2 opposes the argument advanced by the learned counsel or the petitioner.

5 Undisputedly, Opposite Party No 2 is the legally wedded wife of the petitioner and is residing separately. From the evidence adduced by Opposite Party No 2, it is apparent that she has sufficient cause to reside separately from the petitioner. Bare perusal of the impugned order further shows that in spite of legal service of notice, the petitioner himself did not appear before the



learned Principal Judge, Family Court. Therefore, the impugned ex parte order has been passed by the learned Principal Judge, Family Court.

6 Thus, I do not find any merit in the argument advanced by the learned counsel that sufficient opportunity of hearing was not given to the petitioner.

7 With regard to the quantum of maintenance is concerned, the learned Principal Judge, Family Court, on the basis of oral statement of Opposite Party No 2, arrived at the conclusion that the petitioner does private job and is getting monthly salary of Rs 40,000/-. However, no documentary evidence has been produced by Opposite Party No 2 before the learned Principal Judge, Family Court for establishing this fact. However, fact remains that petitioner is the husband of Opposite Party No 2 and is aged about 38 years only meaning thereby he is a young person and capable to earn. The impugned order further shows that he is owning four bighas of land also.

8 Considering the earning capacity of the petitioner, the amount of maintenance awarded by the learned Principal Judge, Family Court, i e, Rs 10,000/- is reduced to Rs 8,000/- which will be paid by the petitioner-husband to Opposite Party No 2-wife



with effect from 25.04.2023, i e, from the date of order passed by
the learned Principal Judge, Family Court.

9 This revision petition is partly allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2024
Transmission Date	22.07.2024

