

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 1314 of 2019

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

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Anil Kumar Jha Son of Late Lekh Nath Jha Resident of Mohalla - Kathalbari,
P.S.- L.N.M.U., District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lovely Kumari D/O - Sri Ram Mohan Mishra Resident of Mohalla - N.P.
Mishra Chauk, P.S.- Laheriasarai, District- Darbhanga
3. Krishna Devi Wife of Late Lekh Nath Jha Resident of Mohalla - Kathalbari,
P.S.- L.N.M.U., District- Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kedar Jha
For the S t a t e	:	Mr.Rina Sinha
For Opposite Party No 2 :		Ms Shama Sinha, Advocate

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 02-09-2024

This revision petition has been preferred by the petitioner being aggrieved with the order dated 11.01.2018 passed by the learned Additional Chief Judicial Magistrate IX, Darbhanga in MR Case No 8 of 2017, Miscellaneous No 108 of 2017 as well as against the judgment and order dated 31.07.2019 passed by the learned Additional Sessions Judge V, Darbhanga in Criminal Appeal No 26 of 2018 whereby both the Courts below directed the petitioner to pay Rs 30,000/- as interim maintenance to opposite party No 2.



2 It is submitted by the learned counsel for the petitioner that before the learned ACJM, a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2015 (for brevity, *the Act*) has been filed by opposite party No 2 – wife and vide its order dated 11.01.2018, without affording any opportunity of hearing or without giving any notice to the petitioner, the learned ACJM passed the impugned order directing the petitioner to pay an interim maintenance of Rs 30,000/- to opposite party No 2 – wife which has also wrongly been affirmed by the learned Additional Sessions Judge vide its order dated 31.07.2019. According to the counsel, since the above order has been passed without serving any notice upon the petitioner, therefore, only on this ground, the impugned order is liable to be set aside.

3 Heard learned counsel for the petitioner as well as learned counsel for opposite party No 2.

4 At this juncture, it would be appropriate to reproduce the provisions of sub section (2) of Section 23 of the Act which reads thus:

“23. Power to grant interim and ex parte orders.- (1)

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may



commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.”

5 A plain reading of the said, it is clear that for getting the relief under Section 23 of the Act relating to interim maintenance, a prima facie case and existence of the instances of domestic violence are required to be made. Perusal of the impugned order shows that the learned ACJM, on the basis of report submitted by the Women Protection Officer and further considering the facts, as mentioned in the application and on the basis of the affidavit submitted by opposite party No 2 – wife, as prescribed in the Act, passed such order.

6 Thus, I do not find any infirmity or illegality in the order passed by the learned ACJM, Darbhanga which has also been affirmed by the learned Additional Sessions Judge. Therefore, this revision petition is liable to be and is hereby dismissed at the stage of admission itself, having no merit.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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