

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No 826 of 2023**

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

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Ajay Prasad @ Ajay Kumar Son Of Bulkan Mahto @ Bulkan Prasad Resident  
Of Village- Tetariya Khurd, Ps- Barachatti, Dist- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Supriya Devi Wife Of Ajay Prasad @ Ajay Kumar Resident Of Village-  
Tetariya Khurd, Ps- Barachatti, Dist- Gaya At Residing At Village-  
Dhanachak, Po- Sarwan Bazar, Ps- Barachatti, Distt- Gaya

... .. Respondent/s

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**Appearance :**

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|----------------------|---|--------------------------|
| For the Petitioner/s | : | Mr.Binod Kumar Sinha     |
| For the Respondent/s | : | Mr.Braj Kishore Pd.(App) |

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**CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL**

**ORAL JUDGMENT**

**Date : 08-08-2024**

Heard both the counsel.

**2** Perused the impugned order dated 19.11.2019 passed by the learned Principal Judge, Family Court, Gaya in Miscellaneous Case No 72 of 2017 whereby the learned Principal Judge, Family Court allowed the application submitted by opposite party No 2-wife under Section 125 of the Cr P C and directed the petitioner to pay monthly maintenance amount of Rs 5,000/- per month to opposite party No 2-wife.

**3** Learned counsel for the petitioner submitted that the impugned order has been passed by the learned Principal Judge,



Family Court without serving any valid notice to the petitioner. He further submits that the petitioner was not aware of filing of aforesaid maintenance case and ex parte judgment was passed. At a later stage from some villagers, he knew about the passing of such ex parte judgment. It is prayed by the counsel that as no opportunity of hearing was given and without any valid service of notice, ex parte order has been passed, therefore, the matter may be remitted back to the concerned Principal Judge, Family Court to decide the case afresh after giving reasonable opportunity of hearing to the petitioner.

4 The above prayer made by the learned counsel for the petitioner is opposed by the learned counsel for the opposite parties.

5 Perusal of the order sheets of the said maintenance case shows that notices were issued by the learned appellate Court to the petitioner. However, order sheet of the Court below further shows that none of the notice has been received by the learned Principal Judge, Family Court served or unserved upon the petitioner. Surprisingly, on 25.06.2019, the learned Principal Judge, Family Court passed the order for service of notice to the petitioner through gazette publication and after gazette publication, petition has been declared ex parte.



**6** According to the learned counsel for the petitioner though, petitioner is the resident of village – Tetaria Khurd, PS – Barachatti but he was working at Gaya Headquarters and is also a person who hardly passed the standard of IX and X. Therefore, he was not aware of the gazette publication.

**7** Looking to the above submission made by the learned counsel for the petitioner and further considering the fact that the learned Principal Judge, Family Court, without any personal service of notice to the petitioner, passed the ex parte order on the basis of paper publication, it would be appropriate to provide the opportunity of hearing to the petitioner.

**8** Accordingly, the impugned order dated 19.11.2019 is set aside.

**9** The matter is remitted back to the concerned Principal Judge, Family Court to decide the maintenance case afresh after giving a reasonable opportunity of hearing to the petitioner-husband.

**10** Both the parties are directed to remain present before the learned Principal Judge, Family Court on 03.09.2024.

**11** The records of the Principal Judge, Family Court be sent back to the concerned Principal Judge, Family Court for further consideration.



12 Accordingly, this revision petition is disposed of.

(Arvind Singh Chandel, J)

M.E.H./-

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