

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 816 of 2023

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

Mitu Ranjan Kumar @ Chandan Prakash @ Suraj Son of Late Kameshwar Prasad @ Kameshwar Singh Resident of Village and P.O.- Mau, P.S.- Tekari, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Angita Kumari D/o- Janmjai Prasad, W/o Mitu Ranjan Kumar @ Chandra Prakash @ Suraj Resident of Village and P.O.- Mau, P.S.- Tekari, District - Gaya. Parentage Address - Resident of Village - Amain, P.S.- parasbigha, District - Jehanabad. Pin Code -804425.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Sinha
For the Respondent/s : Mr.Arun Kumar

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 02-09-2024

This revision application has been preferred by the petitioner – husband being aggrieved with the order dated 11.09.2023 passed by the learned Principal Judge, Family Court, Jehanabad in Maintenance Case No 3 of 2018 whereby the learned Family Court directed the petitioner to pay a monthly maintenance of Rs 15,000/- to opposite party No 2 – wife from the date of filing of the maintenance case, i e, from 04.01.2018.

2 The learned counsel for the petitioner would submit that the impugned order is an ex parte order. According to the



counsel, at the time of passing of the impugned order, the petitioner was posted at Jammu but the learned Family Court served the notice on the petitioner through paper publication which is circulated only at the permanent address of the petitioner, i e, PS – Tekari, District – Gaya. Since the petitioner was not residing at PS – Tekari, District – Gaya, therefore, he was not aware of the maintenance case filed by opposite party No 2 – wife. Thus, it is prayed by the learned counsel for the petitioner that on this ground alone, the impugned order is liable to be set aside.

3 Learned counsel for opposite party No 2 – wife opposes the argument raised by the learned counsel for the petitioner.

4 I have heard learned counsel for both the parties and perused the impugned order as well as the documents annexed with the record of the learned Court below.

5 Bare perusal of the application filed under Section 125 of the Cr P C shows that in that application, the address of the petitioner – husband is mentioned as village – Mau, PS – Tekari, District – Gaya. A perusal of the record of the learned Family Court further shows that on 25.11.2019, an application has been filed by opposite party No 2 – wife wherein she herself mentioned the present address of her husband at Jammu, meaning thereby it



was known to opposite party No 2 – wife that at the time of issuance of notice, the petitioner was posted and was residing at Jammu. Requisites as well as draft of notice have been submitted by opposite party No 2 – wife on 08.04.2022 wherein the address of the petitioner herein is mentioned as PS – Tekari, District – Gaya. Thus, it is clear that in spite of the fact that the petitioner herein was at that time residing at Jammu and this fact was known to opposite party No 2 – wife still she submitted the requisites for issuance of notice through paper publication which is circulated in the district of Gaya only and the learned Family Court, without considering this fact, on 30.08.2022, on the basis of service of notice through paper publication, decided the case ex parte. Therefore, on this ground alone, the impugned order is liable to be set aside.

6 Accordingly, this revision petition is allowed and the impugned order dated 11.09.2023 is set aside.

7 The matter is remitted back to the concerned Family Court to decide the said maintenance case afresh after giving opportunity of hearing to both the parties in accordance with the relevant provisions of law.

8 Both the parties are directed to appear before the concerned Family Court on 18.10.2024.



9 The concerned Family Court is directed to decide the maintenance case as early as possible preferably within a period of nine months from the appearance of both the parties, i e, from 18.10.2024.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2024
Transmission Date	06.09.2024

