

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.180 of 2022

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

Manwendra Nath Chawdhary S/O Late Chandra Deo Chawdhary Permanent Address- Village- Garkha, P.S.- Garkha, District- Saran (Chapra), Presently residing at Ranjan Path, Near Gyan Niketan School, Danapur, P.S.- Danapur, District- Patna

... .. Petitioner/s

Versus

Laxmi devi w/o late Raghuwendra Chawdhary R/o Sector No. 3, Block- 8, Flat No. 44, MIG Bhadurpur Hosing Colony, Kankarbagh, P.S.- Agamkuan, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chetan Kumar, Advocate Mr. Ankit Kumar, Advocate
For the State	:	Mr. Ajay Kumar Jha, APP
For the O.P. No. 2	:	Mr. Onkar Nath, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 19-08-2025

Heard the learned counsel for the parties.

02. For the reasons mentioned in the limitation petition bearing I.A. No. 02 of 2023, delay in filing the present criminal revision petition is condoned.

03. The petitioner is aggrieved by the order dated 21.06.2019 passed by the learned Additional Principal Judge, Family Court, Patna in Maintenance Case No. 10(m) of 2017 whereby and whereunder the learned trial court has directed the petitioner to pay a sum of Rs. 15,000/- per month as maintenance allowance to the opposite party with effect from the date of filing of the maintenance case payable by 20th day of



each month. The petitioner was further directed to pay a lump sum amount of Rs. 10,000/- to the opposite party as litigation cost and was also directed to pay the arrears of maintenance to the opposite party in three equal installments within a year.

04. Learned counsel for the petitioner submits that the opposite party filed Maintenance Case No. 10 of 2017 claiming herself to be the wife of the petitioner but without service of notice, the matter proceeded *ex parte* against the petitioner. Learned counsel further submits that there is no service report on record and without recording satisfaction about the petitioner avoiding service, the learned trial court took recourse to substituted service by way of publication. Learned counsel further submits that the opposite party has not made any averment about the date, time and place of her marriage with the petitioner. Learned counsel further submits that admittedly the opposite party is the sister-in-law of the petitioner who was earlier married with the elder brother of the petitioner. Admittedly, there was two children out the wedlock of opposite party and the elder brother of the petitioner and just in order to grab the property of the petitioner, a conspiracy has been hatched by the opposite party with her sons. Learned counsel further submits that when the deposition of the opposite party as



PW-1 was being recorded in the maintenance case, she stated that she has two sons out of wedlock with the petitioner, which is contradictory to her averment in the maintenance petition. Learned counsel further submits that the learned trial court did not believe this deposition of the petitioner about her son being the children of this petitioner. Learned counsel further submits that no evidence has come on record about the income of the petitioner, still, the learned trial court assumed the income of the petitioner on the basis of the statement of the witnesses and ordered the petitioner to make payment of Rs. 15,000/- per month as maintenance allowance to the opposite party. Learned counsel, thus, submits that the impugned order suffers from various illegalities and is not sustainable and the same be set aside.

05. Learned counsel appearing on behalf of the opposite party vehemently argues that there is no merit in the submission of learned counsel for the petitioner and the impugned order is perfectly legal and proper. Learned counsel further submits that the opposite party has stated in her maintenance petition that she was married with the petitioner in the year 1992, though the children are out of wedlock of her earlier husband and after marriage with the petitioner, they were



treated as children of the petitioner and the documents in this regard have been filed before the learned trial court showing the petitioner to be father of the children. Learned counsel further submits that the petitioner has been working as Ranger in Forest Department and the said fact has been taken note of by the learned trial court. Learned counsel further submits that being already married, the petitioner did not solemnize second marriage for quite long time and only in the year 2015, he has solemnized another marriage and therefore, necessity arose for filing this maintenance petition by the opposite party. Thus, the learned counsel submits that the impugned order does not suffer from any illegality and same be sustained.

06. I have given my thoughtful consideration to the rival submission of the parties. From perusal of record, it is quite apparent that except for the assertion of the opposite party and her witnesses, there is only vague averment about solemnization of marriage of the opposite party with the petitioner. Thereafter, the contention of the learned counsel for the petitioner about there being no cogent material about income of the petitioner on record also seems to be correct as merely on the oral submission, income of the petitioner was decided. In any case, the matter proceeded *ex parte* against the petitioner



and whatever be the rival claims of the parties regarding service of summons upon the petitioner, this Court thinks it appropriate to remand the matter to the learned trial court for consideration afresh after setting aside the impugned order.

07. Accordingly, the impugned order dated 21.06.2019 is set aside and the matter is remanded back to the learned trial court for consideration afresh while granting liberty to the petitioner to agitate all the issues and his contentions before the learned trial court which will proceed in the matter afresh and dispose of the maintenance case strictly in accordance with law at the earliest considering the mandate of law.

08. Both the parties would appear before the learned trial court on 03.09.2025.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2025
Transmission Date	21.08.2025

