

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.223 of 2024

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

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Ranjit Kumar Shahi S/O Gopal Prasad R/O Mohalla- Shahpur, Pokhara, P.O-
Aurangabad, P.S- Aurangabad Town, Distt.- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Suman Kumari D/O Sri Sheo Prasad R/O Village And P.O And P.S- Rajpur,
Distt.- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Kanupriya Singh, Adv.
For the State	:	Mr. Shyam Kumar Singh, APP
For the Opposite Party	:	Mr. Madhav Jha,

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 07-08-2025 The instant revision under Section 19(4) of the Family Courts Act challenges an order at the instance of the petitioner/husband granting maintenance allowance passed by the learned Principal Judge Family Court, Rohtas at Sasaram @ Rs. 10,000/- (Rs. Ten Thousand) per month in favor of the opposite party no. 2 from the date of filing of the petition i.e. from 01.10.2016.

2. Series of objections were taken by the petitioner both in the Trial Court and before this Court. The objections raised by the petitioners are as follows: -

(i) The marriage of the petitioner with the Opposite Party No. 2 was solemnized on 22.04.2016. However, the Opposite Party No. 2 left her matrimonial home after three days

of marriage without any rhyme or reason. It is the case of the petitioner, however, that the opposite party stayed in the matrimonial home for about 15/16 days but marriage was not consummated between the parties.

(ii) The opposite party further states that he filed a suit for restitution of conjugal rights. The said suit is still pending. The petitioner is agreeable to live happy and peacefully conjugal life with the Opposite Party No. 2 but the opposite party willfully refused and neglected to stay with the petitioner. Therefore, she is not entitled to get any maintenance.

(iii) It is submitted by the petitioner that he is an elected Counselor of Ward No. 25 (Nagar Parishad), Aurangabad and earns a remuneration of Rs. 1,500/- (Rs. One thousand five hundred) per month. Therefore, he has no financial capacity to pay Rs. 10,000/- (Rs. Ten Thousand) per month towards maintenance, as directed by the learned Trial Court.

3. This Court likes to decide the issue completely in a different approach not taken by the petitioner in his revisional application. Family Courts Act, 1984 was primarily established to make endeavor to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceedings and should the Family Court feels that there is a reasonable possibility of settlement between the parties, the

proceedings have to be adjourned for reasonable period to enable the parties to affect such settlement. Only if it comes to the conclusion after the above exercise that the settlement is impossible, then the case should be posted for further steps such as written statement/counter issues/ trial and so on. Section 9 of the Family Courts Act lays down the duty of the Family Court to make efforts for settlement, the provision runs thus : -

9. Duty of Family Court to make efforts for settlement.—(1) In every suit or proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.

(2) If, in any suit or proceeding, at any stage, it appears to the Family Court

that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Family Court to adjourn the proceedings.

4. Section 10 States with the general procedure to be followed by the Family Courts.

5. The statement of object and reasons of the Family Courts Act are as follows : - “Several associations of women, other organizations and individuals have urged, from time to time, that Family Courts be setup for the settlement of family’ disputes, where emphasis should be laid on conciliation and achieving socially desirable results and adherence to rigid rules procedure and evidence should be eliminated.”

6. The Law Commission in its 59th Report (1974) had also stressed that in dealing with the disputes concerning the family, the Court ought to adopt an approach radically different

from that adopted in ordinary civil proceedings and that each should take reasonable efforts at settlement before the commencement of the trial.

7. The Code of Civil Procedure, 1908 was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the Courts in adopting this conciliatory procedure and the Courts continued to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt in the public interest to establish Family Courts for speedy settlement of family disputes.

8. Section 7(2)(a) states that subject to the provisions of the Family Courts Act, a Family Court shall also have and exercise-

The jurisdiction exercisable by a magistrate of the first class under Chapter 9 (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 and be such other jurisdiction as may be conferred on it by any other enactment.

Thus, a proceeding under Section 125 of Cr.P.C. is

brought to the jurisdiction of Family Courts under Section 7 (2) (a) of the Act. However, the said proceeding is to be dealt with by the Family Courts as a dispute concerning a family consisting of husband and wife as per the object of the Act read with Sections 9 and 10, it is the duty of the learned Principal Judge Family Court to take up the case in the first hearing after appearance of both the parties for settlement. The learned Family Judge then is required to come to a finding as to whether there is any chance of conciliation or settlement. If conciliation or settlement fails then only adversarial jurisdiction may be adopted by the Family Court.

9. In the instant case, I have perused the order-sheet of Maintenance Case No. 133 of 2016. There is absolutely no order regarding conciliation and settlement of the dispute between the parties in the Lower Court Record. Thus, the mandatory provision having not been followed by the Trial Court. The impugned order is bad in law and liable to be set aside.

10. Accordingly, the instant revisional application is allowed, impugned order is set aside. The record of Maintenance Case No. 133 of 2016 be remitted back to the Trial Court with a direction to the learned Principal Judge Family Court to consider the matter on the question of settlement and conciliation between the parties and if such endeavor of settlement fails, the learned

Trial Judge is at liberty to proceed with the proceeding under
Section 125 of the Cr.P.C.

(Bibek Chaudhuri, J.)

Jyoti Kumari/-

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