

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.472 of 2023

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

=====

Md. Faisal Imam S/O Sayad Muzaffar Imam @ Tufail Ahmad, Mobile No. 7352704576, 8904831455 R/O Village- Bari Mahuli Nankar, Ps. Jale, P.O. Bandhauri Via Kamtaul, Dist. Darbhanga

... .. Petitioner/s

Versus

Zeenat Fatma D/O Late Sayad Aamir Ajij @ Munnar R/O Village- Bari Mahuli Nankar, Ps. Jale, Dist. Darbhanga, At Present Resident of Ward No. 34, Mohalla- Ujjain Tola, P.O. Bettiah, Dist. West Champaran

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sarva Deo Singh, Advocate
For the Respondent/s : Mr. Bimlesh Kumar Pandey, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 08-01-2025 An *ex parte* order of maintenance passed in Maintenance Case No. 25 of 2022 by the learned Principal Judge, Family Court, West Champaran at Bettiah directing the petitioner/husband to pay maintenance at the rate of Rs. 10,000/- per month *vide* order dated 15th June 2022 is under challenge in the instant revision on the following grounds:

(i) the aforesaid maintenance case was heard *ex parte*

(ii) the petitioner did not receive any summons or notice of the said maintenance case, but the trial court wrongly recorded that notice was served upon him through Court

(iii) the trial court failed to ascertain the monthly



income of the petitioner

(iv) the Opposite Party/wife could not produce any document showing income of the petitioner

In spite of the aforesaid lacuna, the trial court directed the petitioner to pay maintenance allowance at the rate of Rs. 10,000/- per month. It is contended on behalf of the petitioner that after disposal of the said maintenance case *ex parte*, the petitioner filed an application under Section 126 of the CrPC for setting aside of the *ex parte* order and to afford him a chance to contest the case. The said application, registered as 22/2023 is still pending. But the trial court issued distress warrant against the petitioner for realisation of maintenance allowance in execution proceeding.

It is also contended on behalf of the petitioner that the petitioner has been continuously paying the Opposite Party/wife a sum of Rs. 5,000/- per month towards maintenance. The said fact is recorded by a Co-ordinate Bench in its order dated 18th October 2024.

Under the above mentioned factual backdrop, the instant criminal revision is disposed of directing the learned Principal Judge, Family Court, West Champaran at Bettiah to dispose of the petition under Section 126 of the CrPC which is



registered as Misc. Case No. 22/2023 first before initiation of execution proceeding subject to the condition that the petitioner shall go on paying Rs. 5,000/- per month to the Opposite Party/wife within 7th of each succeeding month.

The instant criminal revision is accordingly disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U		T	
---	--	---	--

