

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.706 of 2024

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

Abdul Mannan @ Munna @ Md. Munna, S/O Md. Mustak R/O Village -
Amdanda, P.S. - Amdanda, Dist. - Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Zinnat Ara W/O Abdul Mannan @ Munna, D/O Md. Abbas R/O Village- Mangachak, P.S- Sanhoula, Dist.- Bhagalpur.
3. Md. Imran S/O Abdul Mannan @ Munna R/o Village- Amdanda, P.S- Amdanda, Distt.- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Davendra Kumar Pandey, Advocate
For the Respondent/s	:	Mr.Madhura Nand Jha, APP
For the O.P. No. 2	:	Mr.Satish Chandra Mishra, Advocate
		Md. Nursut Hoda, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 29-07-2025 A very short question is involved in the instant criminal revision, viz, whether the defence of the opposite party can be struck off for non-payment of interim maintenance.

2. It is needless to say that while disposing of Maintenance Case No. 147 of 2014, the learned Principal Judge, Family Court at Bhagalpur, in paragraph 10 of his judgement, recorded as hereunder:-

“The testimony of opposite party Abdul Mannan @ Munna has been filed on the record on affidavit but vide order dated 03.03.2020 his testimony was refused to be taken on the record for his



deliberate inaction in making payment of interim maintenance so allowed to petitioner. On the perusal of said order it transpires that the opposite party has refused to make any payment to petitioner and therefore the affidavit of testimony so filed on his behalf has been refused by the then Leaned Court to be taken on the record. The perusal of order sheet further reveals that subsequently on the petition of opposite party his evidence was recalled and was allowed to produce all his evidence within the period of 60 days on the payment of the cost of Rs. 2,500/- (Rs. Two thousand five hundred) to petitioner, however, on his failure to pay cost and to produce evidence the evidence of opposite party was again closed on 10.01.2024 and therefore in the result no evidence from the side of opposite party could come on the record.”

3. There is no provision in Section 125 of the Cr.P.C. that for non-payment of interim maintenance, the evidence of the opposite party / husband filed on affidavit would be refused. Refusal of recording evidence of the opposite party means striking out of defence of the opposite party / husband. Since there is no statutory provision for striking out defence of the petitioner for non-payment of interim maintenance, the order of refusal of accepting evidence of the petitioner is set aside.

4. The petitioner is permitted to adduce his evidence subject to payment of cost of Rs. 20,000/- payable to the



Opposite Party No. 2 within 15 days from the date of this order.
On payment of such money, the original opposite party /
petitioner herein shall be allowed to adduce his evidence.

5. Since the case is pending from 2014 and 10 years
have already been lapsed, the learned Trial Judge shall take all
endeavour to dispose of within 3 months from the date of this
order.

(Bibek Chaudhuri, J)

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