

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1075 of 2019

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

Sanjay Kumar, son of Kailash Prasad, Resident of House No. 30, Sector-11
Noida, G.B. Nagar- 7838919636

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anjani Devi, wife of Sanjay Kumar, Resident of Mohalla - East Mohan Bigha, Kali Asthan, Dehri, P.S.- Dehri, District- Rohtas
3. Aarv Gautam (Minor), son of Sanjay Kumar, Resident of Mohalla - East Mohan Bigha, Kali Asthan, Dehri, P.S.- Dehri, District- Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the O.P. No. 2 & 3	:	Mr. Ajay Kumar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 24-04-2025

The present Criminal Revision petition has been preferred against the impugned final order dated 06.03.2018, passed by learned Principal Judge, Family Court, Rohtas at Sasaram in Maintenance Case No. 109 of 2013, whereby the petitioner herein has been directed to pay maintenance to his wife and minor child @ Rs.20,000/- and Rs.8,000/- respectively per month since the date of filing of the petition i.e. 03.08.2013. However, this order has been passed *ex-parte*, because as per learned Court below, despite service of notice, the petitioner herein had not appeared before the Family Court and hence, the



case has been passed *ex-parte* in favour of the wife and child.

2. Learned counsel for the petitioner submits that he has not received any copy of the notice in regard to the maintenance proceeding before the Family Court and hence, this order may be set aside and matter may be remanded to the Family Court for passing a fresh order after giving opportunity to the petitioner to contest the maintenance petition by way of filing objection and adducing evidence.

3. He also submits that, in the meantime, he is also ready to give interim maintenance to his wife and child @ Rs. 20,000/- per month from the date of filing of the petition i.e. 03.08.2013 for the maintenance of his wife and child, subject to outcome of the final order to be passed by learned Family Court after contest.

4. Learned counsel for the Respondent Nos. 2 and 3, who are wife and child of the petitioner, has no objection for setting aside the matter and remanding the matter to the Family Court, if the petitioner is ready to pay interim maintenance of Rs.20,000/- per month for the maintenance of his wife and child from the date of filing of the petition i.e. 03.08.2013 and the total arrears of the interim maintenance is given within three months in three equal monthly installments.



5. At this stage, learned counsel for the petitioner points out that after passing of the impugned order, the petitioner has made some payment to his wife and child towards their maintenance and hence, this amount of the maintenance paid so far to the wife and child should be adjusted against the total arrears of the interim maintenance.

6. Accordingly, in view of the submissions of both the parties, the present petition is allowed, setting aside the impugned order and remanding the matter to the Family Court to pass a fresh order giving opportunity to the petitioner to file objection to the maintenance petition and giving opportunity to both the parties to adduce evidence.

7. It is further ordered that petitioner will pay Rs. 20,000/- per month as interim maintenance to his wife and child during pendency of the Maintenance Proceeding. Moreover, this interim maintenance will be payable by the petitioner herein to his wife and child since the date of filing of the petition i.e. 03.08.2013 and the total arrears amount would be paid in three equal monthly installments, adjusting any payment made by the petitioner in compliance of the impugned order.

8. After receiving the record, learned Principal Judge, Family Court, is requested to hold Reconciliation Proceeding



first before proceeding further to pass order on the basis of contest.

9. It is also brought to the notice of this Court that the petitioner has already filed one Matrimonial petition under Section 9 of the Hindu Marriage Act before the Family Court for restitution of conjugal rights. Hence, learned Family Court is also requested to proceed with that Matrimonial petition bearing No. 360 of 2019 along with this Maintenance case and both the cases must be decided within four months and give report to this Court, without fail.

10. A copy of this order be sent to the Court below along with the LCR forthwith.

(Jitendra Kumar, J)

S.Ali/-

AFR/NAFR	N.A.F.R
CAV DATE	N.A
Uploading Date	25.04.2025
Transmission Date	25.04.2025

