

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.778 of 2024

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

Saroj Kumar S/o- Arun Sah Resident of village- Godhiyari PO- Simraha, Ps-
Dist- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sarswati Kumari Wife of Saroj Kumar, D/o- Umesh Sah Resident of village-
Godhiyari PO- Simraha, Ps- Dist- Madhepura, P/A- Asarganj PO Ps-
Asarganj Dist- Munger

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Durgesh Kumar, Advocate
For the Respondent/s	:	Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 29-07-2025 The instant criminal revision is directed against an order dated 05.07.2024 passed by the learned Principal Judge, Family Court, Munger in Maintenance Case No.41 of 2022, whereby and whereunder, the learned Trial Judge passed an ex-parte order directing the petitioner to pay maintenance at the rate of Rs.20,000/- per month in favour of the opposite party No.2 from the date of filing of the application.

2. It appears from paragraph No.4 of the impugned judgment that the opposite party/petitioner herein did not appear to contest the case under Section 125 of the Cr.P.C. inspite of receipt of notice. Therefore, the Trial Court fixed the matter for ex-parte hearing.



3. Subsequently, the petitioner appeared before the Court and prayed for vacating the ex-parte order. The said order was vacated subject to payment of cost of Rs.20,000/-. The petitioner did not pay the cost for vacating the ex-parte order. He also did not file any application for waiving the cost or that for accepting the written statement on behalf of him.

4. In view of such circumstances, the Trial Court passed an order directing the petitioner to pay maintenance at the rate of Rs.20,000/- per month on the finding that the petitioner is a Mechanical Engineer, working in Chandigarh and earns Rs.90,000/- per month. Apart from the said salary, the petitioner earns Rs.10,000/- per month from his cultivation.

5. It is contended on behalf of the petitioner that the order of maintenance was passed without giving opportunity of hearing to him and therefore, the said order is liable to be set aside.

6. In considered view of this Court, the instant revision is not maintainable, for the reason that proviso to Sub-section (2) of Section 126 of the Cr.P.C. clearly states that an ex-parte under section 125 of the Cr.P.C. may be set aside by the Court, who passed the order for good cause shown on an application made within three months from the date thereof



subject to their terms including the terms as to payment of cost to the opposite party/petitioner/husband herein as the Magistrate may think just and proper.

7. In view of above efficacious relief for setting aside ex-parte, the instant revision is not maintainable under the provision of Section 397 r/w Section 411 of the Cr.P.C. Therefore, I have no other alternative but dismissed the instant revision application.

8. Accordingly, the instant revision application is dismissed.

(Bibek Chaudhuri, J)

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