

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.821 of 2024

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

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Jay Prakash S/o Upendra Singh R/o Village- Indra Youn Asthan 530 B Block
Jamshedpur, P.O. and P.S.- Sonari, District- Purbi Singhbhum, Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pallavi Kumari W/o Jay Prakash R/o vill - Indra Youn Asthan 530 B Block
Jamshedpur, P.O. and P.S. - Sonari, Distt. - Jamshedpur Purbi Singhbhum
Jharkhand

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary
For the Respondent/s : Mr. Umesh Lal Verma

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 23-06-2025 This is an application filed by the O.P./husband
praying for setting aside of an order dated 28th August 2024
passed by the learned Principal Judge, Family Court at
Aurangabad in Maintenance Case No. 121 of 2023 directing the
petitioner to pay the maintenance to the O.P. No. 2 at the rate of
Rs. 50,000/- per month from the date of filing of the petition
under Section 125 of the CrPC. It is pertinent to mention here
that the said application was disposed of *ex parte* on 28th August
2024. The said *ex parte* order is under challenge in the instant
revision. It is specifically stated in the *proviso* to sub Section 2
of Section 126 of the CrPC as hereunder:-



“Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case ex parte and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.”

2. Plain reading of the above proviso is that an *ex parte* order of maintenance can be set aside if good cause is shown that the petitioner was prevented by sufficient cause to appear before the trial court when the maintenance case was disposed of.

3. In view of efficacious relief provided in sub Section 2 of Section 126 of the CrPC, this Court finds that the instant revision under Section 397 read with Section 401 of the CrPC is not maintainable.

4. The revisional application is thus, disposed of. In



view of the disposal of the instant revisional application, I.A.
No. 01 of 2025 filed in the instant revision be treated as
disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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