

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.460 of 2021

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

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Rajesh Sharma, S/o Late Dina Sharma @ Deenanath Mistri, Resident of Village-Purani Etwarpur, Patna Gaya Road, Near Ware House Parsa Bazar, PS- Parsa Bazar, District Patna.

... .. Petitioner

Versus

Ibha Devi, W/o Rajesh Sharma, Resident of Mohalla-Katari Hill Road, P.S- Chandauti, District-Gaya.

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Gaurav Govind, Advocate
For the Respondent	:	Mr. Sumeet Kumar Singh, Advocate
		Ms. Rupali Singh, Advocate
		Mr. Kumar Vikram, Advocate
		Mr. Anmol Kumar, Advocate
		Mr. Raushan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 09-01-2026 The present Criminal Revision Petition has been preferred by the Petitioner against the impugned final order dated 22.11.2019, passed by learned Principal Judge, Family Court, Gaya, Bihar in maintenance case bearing Miscellaneous Case No.47 of 2016 under Section 125 Cr.PC, whereby, the Petitioner has been directed to pay Rs.5,000/- per month to the sole Respondent/Wife, Ibha Devi towards her maintenance. It further transpires that during the Maintenance case, the Petitioner has appeared and has filed even show cause/reply to the maintenance petition, but thereafter, he left the *pairwi* in the case and he could neither cross-examine witnesses of the wife,



who is the Opposite Party herein, nor he could examine his own witnesses.

2. However, learned counsel for the Petitioner submits that as a matter of fact, the advocate engaged by him in the case did not inform him about next date of the hearing. Hence, he could not attend the matter or adduce his evidence or cross-examine the witnesses of the Opposite Party/Wife. Hence, he may be given opportunity to cross-examine the witnesses of the wife and adduce his own evidence.

3. Learned counsel for the Opposite Party No.2, however, opposes the prayer of the Petitioner submitting that there is no reason to allow the Petitioner to adduce his evidence or cross-examine the witnesses of the Opposite Party because he had left to attend the matter of the maintenance case voluntarily. He was aware of the proceeding. Hence, there is no reason to give any opportunity to the Petitioner as he is praying for. She further submits that despite such order, not even a single paisa has been paid by the Petitioner/husband to the Opposite Party/Wife till date.

4. I considered the submission advanced by the parties and perused the material on record.

5. I find that the Petitioner appeared in the Family



Court to oppose the Maintenance Petition and filed his reply to the Maintenance Petition but, thereafter, he neither cross-examined the witnesses of the wife, nor did he examine his own witnesses against the Maintenance Petition. As such, there is no evidence adduced on behalf of the Petitioner on record. As a matter of fact, there is no technical reason to accept the prayer of the Petitioner.

6. However, seeing the practicality of the case and broad interest of justice, he deserves one opportunity to cross-examine the witnesses of wife and adduce his own evidence, subject to payment of cost of Rs.5,000/- to the Wife/Opposite Party herein, and payment of Rs.3,500/- per month during pendency of the Petition as interim maintenance if it is remanded to the Family Court for passing fresh order. He will also be liable to pay Rs.5,00/- to the Opposite Party/Wife towards litigation cost on every date before the Family Court.

7. Hence, the impugned order is set aside, subject to payment of Rs.5,000/- to the Opposite Party/Wife by the Petitioner towards litigation cost and the matter is remanded to the Family Court for proceeding from the stage of cross-examination of wife and her witnesses by the Petitioner/husband and thereafter, the Family Court will give opportunity to the



Petitioner to examine his own witnesses and these witnesses will be also cross-examined by the Wife. Final order will have to be passed by the Family Court within six months, if required, the Family Court may run the Court on day to day basis and during the pendency of this Petition after remand before the Family Court, the Petitioner husband will pay Rs.3,500/- per month as interim maintenance to the Wife and litigation cost of Rs. 5,00/- on every date before the Family Court besides the payment of Rs.5,000/- cost for the present proceeding.

8. Hence, the impugned order is set aside and the matter is remanded accordingly.

9. The interim maintenance paid by the Petitioner/Husband will be subject to adjustment against the Final Order.

10. The present petition stands disposed of, accordingly.

(Jitendra Kumar, J.)

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