

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.543 of 2021

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

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Kundan Manjhi, Son of Ram Chandra Manjhi, Resident of Village - Kauru Dharu, P.S.- Manjhi, Distt.- Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar
 2. Babi Devi, D/o Sri Bhola Ram, Resident of Village - Kauru Dharu, P.S.- Manjhi, Dist.- Saran.
 3. Commandant, Bihar Special Armed Police- 5, Patna Bihar
- Respondents

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Appearance :

For the Petitioner	:	Mr. Ram Hriday Prasad, Advocate
For the State	:	Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

11 12-01-2026 The present Criminal Revision Petition has been filed for setting aside the impugned final order dated 02.07.2021, passed by learned Principal Judge, Family Court, Saran at Chhapra, whereby the Petitioner has been directed to pay Rs.12,000/- per month to the Opposite Party No.2, Baby Devi towards her maintenance as his wife since the date of filing the maintenance petition i.e 13.07.2010 and the arrear amount has been also directed to be paid within three months of date of passing the order.

2. However, learned counsel for the Petitioner submits that the Petitioner herein could not file his written objection to the maintenance petition, nor could he adduce his own evidence, nor could he cross-examine the witnesses of the



Opposite Party No.2, who was the Petitioner before the Family Court. He further claims that as a matter of fact, there is no marriage solemnized between the Petitioner herein and the O.P. No.2 herein, Baby Devi and it would be grave injustice, if the full fledged trial is not conducted by learned Family Court for deciding the maintenance petition as filed by the O.P. No.2 before the Family Court.

3. However, learned counsel for the O.P. No.2 submits that the Petitioner himself has preferred not to file his written objection to the maintenance petition, despite having appeared before the Family Court, and hence, there is no reason to set aside the order and remand the matter for fresh trial before the Family court. It is a fault on the part of the Petitioner himself, who has not filed written objection before the Family Court or adduced his evidence.

4. However, in reply to such submission, learned counsel for the Petitioner submits that he has already filed his reply to application for interim maintenance. And thereafter, the matter was dismissed for default on account of failure of the Petitioner, Baby Devi to attend the maintenance petition and thereafter, for restoring the maintenance petition, no notice was received by the Petitioner. Hence, he was not aware of the



proceeding going on after dismissal of the Petition for default.

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

6. In view of the submission that Baby Devi is not the wife of the Petitioner herein, it would be grave injustice to grant maintenance in such a way as granted by learned Family Court. Justice demands full inquiry by the Family Court after completion of pleading and evidence of both the parties so that no injustice is caused to either of the parties.

7. Hence, the present impugned order is set aside, and remanded to the concerned Family Court for proceeding from the stage of filing written objection by the Petitioner herein, who was the Opposite Party before the Family Court and thereafter, both the parties will be given opportunity to adduce their evidence and cross-examine the witnesses of each other and only thereafter, the Family Court will pass final order after hearing the submissions of both the parties.

8. However, during pendency of the matter before the Family Court, the Petitioner herein will keep paying Rs.15,000/- per month to Baby Devi as interim maintenance, which will be subject to adjustment of the final order. In case, it is found that Baby Devi is not the wife of the Petitioner, then the whole



money will be liable to be recovered from her.

9. I also find that it would be just to direct the Petitioner to pay cost of Rs.10,000/- for the present petition filed before this Court. He will be also required to pay Rs.1,000/- on each and every date before the Family Court towards litigation cost. The Family Court is also directed to conclude the maintenance proceeding on or before the 31st May, 2026, failing which, contempt proceeding will be initiated against the Family Court. In case, maintenance case is not concluded within the stipulated time. If required, Family Court may run the case on day to day basis.

10. The present petition stands disposed of, accordingly.

11. T.C.R. be sent back to the Family Court concerned without any delay and both the parties are directed to appear before the Family Court on 02.02.2026 at 10:30 AM and office is directed to ensure that the file is sent back to the Court concerned before that date.

(Jitendra Kumar, J.)

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