

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.772 of 2024

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Vivek Kumar S/O Gaurishankar Prasad Tanti, R/o - Champa Nagar Tanti
Bazar, Near Jain Temple, T.B.Road, P.S.- Nathnagar, District- Bhagalpur.

... .. Petitioner

Versus

Priti Kumari W/o Vivek Tanti, D/o Dinesh Tanti, R/o Village- Kalyanpur,
P.S.- Bariyarpur, District- Munger.

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Arvind Kumar Singh, Advocate
For the O.P. No. 2	:	Mr. Shivendra Kumar Sinha, Advocate
		Mr. Ranjeet Patel, Advocate
		Mr. Avnish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 16-02-2026

Heard learned counsel for the parties.

2. Learned counsel for the petitioner at the outset submits that the petitioner is not in a position to make payment of any maintenance amount and for this reason the order dated 09.09.2025 could not be complied with, by which a conditional stay was granted to the petitioner against any coercive steps.

3. Since the petitioner has failed to comply with the conditions of the order dated 09.09.2025 for making payment of Rs. 9,000/- per month to the opposite party no. 2 starting from the month of September, stay on no coercive steps is vacated.

4. The instant revision petition has been filed against the judgment and order dated 20.04.2022 passed by the Principal Judge, Family Court, Munger passed in Maintenance



Case No. 22 of 2017, whereby and whereunder the learned Family Court ordered the petitioner to pay a maintenance amount of Rs. 9,000/- per month to the opposite party no. 2.

5. In this case, an interlocutory application has been filed for condonation of delay of 778 days which was allowed *vide* order dated 09.09.2025 and the delay in filing of revision petition was condoned.

6. The learned counsel for the petitioner submits that the petitioner did not get any opportunity to contest the claim of the opposite party no. 2. No notice was served upon the petitioner and the learned Family Court without appreciating this fact that the registered notice as well as notice sent through speed post returned undelivered with an endorsement that the petitioner did not stay at the address. Similarly, the notice sent through ordinary process was also returned as it reached the process server after the date fixed and it also appears that no new date was fixed for fresh service of notice. However, the learned Family Court has not considered all these facts. The order of the learned Family Court is against the principles of natural justice and an opportunity of hearing was not given to the petitioner.

7. Learned counsel for the opposite party no. 2 vehemently contends that the petitioner avoided receiving the



notices and got the notices returned with false endorsement. Learned counsel further submits that the petitioner did not take any steps for setting aside the ex parte order before the learned trial Court. The petitioner has got every knowledge about the proceeding before the learned Family Court and when the matter reached the stage of execution, he has now approached this Court. Therefore, there is no merit in the present revision petition and the same be dismissed.

8. I have given my thoughtful consideration to the rival submissions made on behalf of the parties and perused the record. From perusal of the record of the learned trial Court, I find that the notice sent through ordinary process was returned by the process server with noting that it was received after the due date and was being returned without service. Similarly, the undelivered registered cover and speed post also returned with endorsement that the addressee did not reside at the address anymore. Therefore, it appears that there is non-compliance of Order V Rule 17 of the Code of Civil Procedure. Further, no steps were taken for substituted service under Order V Rule 20 of Code of Civil Procedure. One of the basic principles of the common law system is that the other party should be heard before passing any order against him and it appears that orders of the learned trial Court is passed in violation of the rule of



audi alteram partem.

9. Therefore, I am of the opinion that the impugned order could not be sustained and hence, the said order is set aside. The parties are directed to appear before the learned Principal Judge, Family Court, Munger / Successor Court on 25.02.2026 at 11:00 AM, and the Court concerned would give an opportunity of hearing to the petitioner and thereafter, take expeditious steps for disposal of the case before it.

10. Accordingly, the present revision petition is allowed.

11. Office is directed to return the LCR forthwith, if any.

12. If the petitioner fails to appear before the learned trial Court on the aforementioned date, then the order of this Court will lose its effect.

(Arun Kumar Jha, J)

Shahnawaz/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.02.2026
Transmission Date	17.02.2026

