

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.922 of 2025

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Pankaj Kumar son of Jawahar Lal Singh Resident of village- B-2, Orange Pearl Apartment, First Floor Plot no. 189 Kakrola, Near Partibha School, NSIT Dwarka, south West Delhi, Delhi -110078 P/A- Resident of Quarter No. 1329 Street- 48, Sector- 8/D Chirudih, bokaro Steel City, Po- Sector 9, Ps- Harla IX, Dist- Bokaro, Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nutan Kumari Wife of Pankaj Kumar Resident of Quarter No. 1329 Street- 48, Sector- 8/D Chirudih, bokaro Steel City, Po- Sector 9, Ps- Harla IX, Dist- Bokaro, Jharkhand P/A- Sudha Sadan, Adarsh Nagar, Ps- Harnaut, Dist- Nalanda

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Jagjit Roshan, Advocate
For the State	:	Mr.Ram Priya Sharan Singh, APP
For the O.P. No. 2	:	Mrs. Prem Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 21-07-2026

I.A. No. 01 of 2025

The instant interlocutory application has been filed for condoning the delay of 38 days in filing the present criminal revision petition.

02. For the reasons mentioned in the I.A. No. 01 of 2025, the delay of 38 days in filing the present criminal revision is condoned. Accordingly, I.A. No. 01 of 2025 is allowed.

Criminal Revision No. 922 of 2025

03. The instant revision petition has been filed against the order dated 09.04.2025 passed by learned Principal Judge,



Family Court, Bihar Sharif (Nalanda) under section 125 of the CrPC in Maintenance Case No. 62M of 2022 whereby and whereunder the present petitioner was directed to make payment of Rs.15,000/- per month to the opposite party no. 02 along with litigation cost of Rs.5,000/-.

04. Learned counsel for the petitioner submits that the matter proceeded against the petitioner *ex-parte* and the petitioner appeared before the Court on 13.01.2023 and on the prayer of the petitioner, the *ex-parte* order was recalled subject to payment of cost of Rs.2,000/- but the petitioner was not informed by his counsel and for this reason he could not make payment of the cost amount of Rs.2,000/-. Learned counsel also submits that the petitioner has already been making payment of Rs.5,000/- to the opposite party no. 02 in terms of order dated 23.01.2023 passed in Cr. Misc. No. 29384 of 2022 by a learned Coordinate Bench of this Court. It is not believable that the petitioner would not have made payment of Rs.2,000/- for recalling the *ex-parte* order. Learned counsel further submits that thereafter on several days there has been attendance on behalf of the petitioner when the matter was fixed for evidence of the opposite party no. 02. Further no evidence was adduced during this period. Only on single date when the petitioner was



not present i.e. 22.01.2024, there was no representation on behalf of the petitioner and the opposite party no. 02 was directed to bring her evidence in the light of order dated 21.09.2022. Thereafter, the proceeding was made *ex-parte* treating to be *ex-parte*, though there was no specific declaration to that effect by the learned trial court. Learned counsel thus submits that the petitioner was not given opportunity of contesting the maintenance case and the order to make payment of Rs.15000/- per month on the basis of *ex-parte* order is not correct and therefore, the impugned order dated 09.04.2025 may be set aside allowing the petitioner to contest the case.

05. However, learned counsel appearing on behalf of the opposite party no. 02 vehemently opposes the submission made on behalf of the petitioner. Learned counsel for the opposite party no. 2 submits that the petitioner did not appear before the learned trial court despite service of notice and the matter was proceeded *ex-parte* vide order dated 21.09.2022. Thereafter, the petitioner appeared on 13.01.2023 and made prayer for setting aside the *ex-parte* order which was thereafter recalled, subject to payment of Rs.2000/-. The petitioner never intended to contest the case and for this reason, never made payment of Rs.2000/-. Considering the conduct of the petitioner,



the learned trial court vide order dated 22.01.2024 recorded its observation that the petitioner wanted to linger the matter and thereafter, the learned trial court ordered the opposite party no. 2 to bring her evidence in terms of order dated 21.09.2022 whereby the matter was fixed for *ex-parte* proceedings. Learned counsel also submits that the petitioner has the further opportunity to pray for recall of the order during the proceeding which took place before the learned Principal Judge, Family Court but he did not avail this opportunity. If the order was passed *ex-parte*, the petitioner has the recourse of law under Section 126(2) of the CrPC, but he did not avail that opportunity and came before this Court by filing revision application. Therefore, the petitioner has not come before this Court with clean intention and there is no merit in the instant revision petition and hence, the same may be dismissed.

06. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

07. The basis of the present revision petition challenging the impugned order on the part of the petitioner is that he has been appearing before the learned trial court after order for *ex-parte* was recalled and only on single date when he did not appear, the opposite party no. 2 was directed to bring



evidence and the matter proceeded *ex-parte* though there was no specific declaration that henceforth, the matter would proceed *ex-parte*. I find the submission of the learned counsel for the petitioner on this account to be misconceived. Once the order for *ex-parte* proceeding was recalled at the instance of the petitioner, the petitioner was duty bound to fulfill the terms of the order which was about making payment of Rs.2000/- per month. It is immaterial if the petitioner has been making payment of Rs.5000/- in terms of order dated 23.01.2023 passed in Cr. Misc. No. 29384 of 2022. The payment made in terms of order dated 23.01.2023 passed in Cr. Misc. No. 29384 of 2022 has no bearing on the intention or motive of the petitioner in not making payment in maintenance case for setting aside the *ex-parte* order. I also find the further contention of the petitioner about his appearance on 5-6 days thereafter and the opposite party no. 02 not adducing any evidence to be misconceived for the reason that on all these dates when the petitioner appeared, there was no court working day for the reason that either the Presiding Officer has been transferred or the Presiding Officer was on leave or on current duty. In these circumstances, no proceeding could have taken place and claim of the petitioner that no evidence was adduced is without any merits. Further,



there was no requirement for the learned trial court to specify on 22.01.2024 that the proceedings would now take place *ex-parte* as the learned trial court has ordered that the opposite party no. 02, the petitioner therein, would bring evidence in the light of order dated 21.09.2022. Now, vide the order dated 21.09.2022, proceeding was fixed *ex-parte*.

08. Since the whole case of the petitioner revolves around the aforesaid facts and circumstances and submission of the petitioner is also to that point only, I hardly find any merit in the present revision petition and therefore, the same is dismissed.

09. I.A., if any, stands disposed of.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	22.07.2026
Transmission Date	22.07.2026

