

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31663 of 2015

In
Criminal Revision No.4 of 2010

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Rambabu Giri S/o Bujhawan Giri, resident of Village Jaitipur, P.S. Bihta,
District Patna at present T.T.E. Eastern Railway, Howrah, West Bengal.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Ramintar Devi D/o Rajdeo Giri, resident of Village Masaurhi,
Police Station Masaurhi, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sajid Salim Khan

For the Opposite Party/s : Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 23-09-2015

Heard the parties.

The present application has been filed on behalf of the petitioner seeking restoration of Cr. Rev. No. 4 of 2010, which stood dismissed on account of non-compliance of Court's peremptory order dated 31.07.2012.

The aforesaid Cr. Rev. No. 4 of 2010 was filed assailing the validity and correctness of order dated 18.04.2009 passed in Cr. Misc. No. 7 of 2000 by the learned Additional Principal Judge, Family Court, Patna, whereby petition filed on behalf of the O.P. no.2 under Section 127 Cr. P.C. for alteration/ enhancement of amount of maintenance in her favour was allowed.

After the aforesaid order dated 18.04.2009 more than six years have already elapsed. In Cr. Rev. No. 4 of 2010 filed on behalf of the petitioner, the order passed by the learned Family Court was never stayed. Furthermore, even after dismissal of aforesaid Cr. Rev. No. 4 of 2010, more than three years have already elapsed, but no explanation has been furnished for

approaching this Court after three years. Subsequent developments have also not been brought on record.

Taking into consideration the aforesaid factual matrixes, this Court is of the opinion that instead of restoring Cr. Rev. No.4 of 2010 to its original file, the interest of justice shall be subserved if the petitioner is granted liberty either to file a fresh criminal revision application in the same subject matter after bringing on record all the subsequent developments including showing compliance of the orders passed by the learned Family Court, or alternatively he may file a fresh petition before the learned Family Court under Section 127 Cr. P.C. for grant of appropriate relief regarding amount of maintenance payable to the O.P. no. 2. It is ordered accordingly.

If such a fresh criminal revision application is filed on behalf of the petitioner in the same subject matter within a period of one month from today with a certified copy of the present order, or alternatively the petitioner files a fresh petition under Section 127 Cr. P.C. before the learned Family Court, then the same shall be heard and decided on its own merit without being prejudiced/influenced by the dismissal of the aforesaid Cr. Rev. No. 4 of 2010 on account of non-compliance of the Court's peremptory order dated 31.07.2010.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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