

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.36 of 2015

=====

1. Md. Mojibur Rahman Son of Sheikh Khalil R/O Masanpur, P.S-Barosi,
Distt.-Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Naurangi Khatoon D/O Md.Buddhu R/O Vill-Masanpur,P.S-
Barosi,Distt.-Katihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad

For the Respondent/s : Mr. Anusaiya Jaiswal(App)

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 28-02-2017

I. A. No. 96 of 2015

This application has been filed by the petitioner,
under Section 5 of the Limitation Act, seeking condonation
of delay of about two years in preferring the present
criminal revision application, against the order, dated
04.10.2012, passed by learned Principal Judge, Family
Court, Katihar, in Maintenance Case No. 132 of 2007.

Having considered the reasons assigned in the
present petition seeking condonation of delay, this Court is
satisfied that the petitioner was prevented by sufficient
causes from preferring the application within time.

In view of the above, the delay, in preferring
the present criminal revision application, is hereby



condoned.

I.A. No. 96 of 2015 stands allowed.

CRIMINAL REVISION NO. 36 OF 2015

Despite service of notice, Opposite Party No. 2 has not entered appearance.

The petitioner is aggrieved by an order, dated 04.10.2012, passed by learned Principal Judge, Family Court, Katihar, in Maintenance Case No. 132 of 2007, whereby he has asked the petitioner to pay a sum of Rs. 2,000/- per month as maintenance allowance to Opposite Party No. 2, under Section 125 of the Code of Criminal Procedure, 1973.

The short point which has been taken on behalf of the petitioner is that at no point of time, any notice was served upon him before passing of the order, dated 04.10.2012. It has also been submitted that Opposite Party No. 2 has re-married and living with another man and for that reason also, she is not entitled for any maintenance allowance. Learned counsel for the petitioner has contended that these facts could not be brought to the notice of the learned Court below because he did not have the notice of the case.

Since there is no representation on behalf of Opposite Party No. 2, despite valid service of notice, I have



no other option, but to sustain the plea taken on behalf of the petitioner of non-service of notice.

Accordingly, the impugned order, dated 04.10.2012, is set aside. The matter is remanded back to the Court of learned Principal Judge, Family Court, Katihar, for the purpose of passing an order afresh after giving the parties due opportunity of hearing.

This application is allowed with the observation, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

