

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 221 of 2018

Arising Out of Maintenance Case No.- 214 Year-2014 Thana- District- Samastipur

Sushil Kumar Singh @ Sushil Mandal, Son of Ugresh Mandal, Resident of Village- Dehiyar, P.O.- Rana, P.S.- Hathauri, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Nilam Devi, Wife of Sushil Kumar Singh @ Shushil Mandal.
3. Nandani Minor, Daughter of Sushil Kumar Singh @ Sushil Mandal Under the Guardianship of her mother Nilam Devi, Resident of Village- Dehiyar, P.S.- Hathauri, P.O.- Rana District- Samastipur, Presently C/o Satya Narian Singh, Resident of Village- Shivnagar, P.S.- Rosera, P.O.- Karian, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra, Advocate
For the State	:	Mr. Amit Kumar Rakesh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 16-09-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has moved the Court under Section 19(4) of the Family Courts Act, 1984, against the order dated 15.06.2016 passed by the Principal Judge, Family Court, Samastipur in Maintenance Case No. 214 of 2014/ Registration No. 725 of 2014, by which Rs. 5,000/- in favour of the opposite party no. 2, who is the wife of the petitioner and Rs. 1,000/- per month in favour of the opposite party no. 3, who is the minor daughter of the petitioner has been awarded.



3. The petition having been filed after expiry of limitation, Interlocutory Application No. 708 of 2018 was filed for condonation of delay which is of about almost one and a half years.

4. At the very outset, learned counsel for the petitioner submitted that the order impugned is *ex parte* as he had not received any notice of the proceeding. He submitted that even before the Court below, the opposite party no. 2, i.e., the wife had herself stated that she was ready to live with the petitioner. At this juncture, a categorical stand was taken that the petitioner is ready to keep the opposite parties no. 2 and 3 with him in the matrimonial home with full dignity, honour and security and also with the undertaking that he shall provide for all their needs.

5. Learned APP submitted that if the contention of the petitioner is true, he should move before the Court below under Section 127(2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') as the order has been passed under Section 125 of the Code for such relief, where the Court would have the opportunity to call upon the parties and take their statement and pass appropriate orders.

6. In view thereof, learned counsel for the petitioner submitted the matter be disposed off with liberty to the petitioner



to approach to the Court below by filing a petition under Section 127(2) of the Code.

7. Having regard to the aforesaid, the application stands disposed off with liberty aforesaid.

8. The Court may only observe that if the *bona fide* of the petitioner is proved before the Court that he is genuinely ready and interested to keep his wife and daughter with him which is agreeable to by the wife, as has come in the order impugned itself, the Court after recording the statement and ensuring that there are sufficient safeguards to ensure the well being of the opposite parties no. 2 and 3, may pass appropriate orders taking into account the fact that the first attempt should be towards reconciliation and the parties who are husband, wife and daughter start living together as one family under peaceful circumstances.

(Ahsanuddin Amanullah, J.)

P. Kumar

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