

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No. 784 of 2018**

**Along with**  
**Interlocutory Application No. 1 of 2019**

Arising Out of Maintenance Case No.- 49 Year-2012 Thana- District- Darbhanga

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Abdul Rahman @ Md. Rahman Khan @ Abdul Rahman Khan, Son of Md. Rahim Khan, Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rukhsana Khatoon, Wife of Abdul Rahman @ Md. Rahman Khan @ Abdul Rahman Khan, Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.
3. Farzana Khatoon Daughter of Abdul Rahman @ Md. Rahman Khan @ Abdul Rahman Khan Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.
4. Farhana Khatoon Under the guardianship of her mother Rukhsana Khatoon, Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.
5. Farhan Khan Under the guardianship of her mother Rukhsana Khatoon, Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.
6. Imran Khan Under the guardianship of her mother Rukhsana Khatoon, Resident of Village - Baghla, P.S.- Hanumannagar, District- Darbhanga.

... .. Opposite Party/s

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**Appearance :**

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|----------------------|---|----------------------------------------------------------|
| For the Petitioner/s | : | Mr. Manish Kumar No 13 and<br>Mr. Rohit Kumar, Advocates |
| For the State        | : | Mr. Jharkhandi Upadhyay, APP                             |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN**  
**AMANULLAH**

**ORAL JUDGMENT**

**Date : 20-08-2019**



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

Re.: Interlocutory Application No. 1 of 2019

2. The present Interlocutory Application has been filed seeking condonation of delay of 10 months 7 days in filing of the limitation petition.

3. The only reason given in the application is that no proper information was gathered by the parvikar about the impugned judgment.

4. Learned counsel for the petitioner submitted that he was not informed.

5. The Court cannot accept such position.

6. From the judgment and order dated 19.05.2017 passed in Maintenance Case No. 49 of 2012/Registration No. 319 of 2014, filed by the opposite parties no. 2 to 6, by the Principal Judge, Family Court, Darbhanga, it is clear that learned counsel for the petitioner had appeared in the case. He had also got seven witnesses examined, including himself in the case, on his behalf.

7. Thus, when a person is so fiercely contesting a case with his wife and children, it was equally incumbent on the petitioner to keep track of the case and the order impugned having been passed, there cannot be any justification of the application



being filed 10 months and 7 days after expiry of the period of limitation, that too on the lame ground that he had no proper information.

8. Thus, the Court finds that there has been willful laches on the part of the petitioner in not moving the Court against the impugned judgment within time.

9. Accordingly, the Interlocutory Application No. 1 of 2019, stands dismissed.

Re.: Criminal Revision No. 784 of 2018

10. Though, the limitation not having been condoned, the main revision application itself is required to be dismissed on that ground alone, but still the Court has heard learned counsel for the petitioner at length on merits also.

11. Learned counsel for the petitioner submitted that he has been paying Rs. 4,000/- per month as maintenance. On a query of the Court as to under which order and in which case such maintenance has been paid, learned counsel was not able to give any reply. Further, learned counsel submitted that the opposite parties no. 2 to 6 are living in the ancestral home. Again on a query of the Court as to how, mere living in the ancestral house would disentitle them to maintenance, as the opposite party no. 2, along with her four children, one being dumb and the other being



handicapped, can maintain themselves and the quantum being only Rs. 3,000/- per month, learned counsel again had no answer to the same.

12. Learned counsel for the petitioner submitted that the petitioner is ready to resolve the issues.

13. On a query of the Court as to why such offer was not made before the Court below and further when he has unilaterally taken the stand that he has divorced the opposite party no. 2 and has also admitted in his deposition that he is not aware as to how the opposite party no. 2 and his four children are managing to live without there being any money being given by him, again learned counsel for the petitioner had no reply to the same. However, the Court would observe at this stage that such offer is absolutely without *bona fide*, for the reason, that such offer had to be made by the petitioner to the opposite parties no. 2 to 6, from his side *suo motu*. The same not having been done before the Court below and the conduct of the petitioner in even assailing the order whereby a meager amount of Rs. 3,000/- per month has been granted as maintenance to the opposite party no. 2 and the four children, especially, two of whom are dumb/handicapped, the Court finds no ground to interfere. Moreover, it is always open to the petitioner to approach the opposite parties



no. 2 to 6 or the appropriate forum with regard to any settlement he may have to offer to them.

14. Having considered the aforesaid, the Court finds that in view of the evidence which has come before the Court and the fact that a small amount of Rs. 1,000/- per month for the opposite party no. 2 and Rs. 500/- per month each to the opposite parties no. 3 to 6, having been granted by the Court, the same can in no way termed to be either excessive or arbitrary. Moreover, the Court finds that the judgment impugned is well considered requiring no interference in the revisional jurisdiction being exercised by the Court under Section 19(4) of the Family Courts Act, 1984.

15. For reasons aforesaid, the application, being devoid of merit, stands dismissed both on limitation as well as on merits.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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