

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.504 of 2018

Arising Out of PS. Case No.- Year- Thana- District- Muzaffarpur

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Arun Kumar Mahto, S/o Ram Lakhn Mahto, R/o Village- Pilkhi, P.O.- Pilkhi Gajpati, P.S.- Sakara, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Indra Devi, W/o Arun Kumar Mahto, D/o Ram Pratap Mahto
3. Shanti Kumari, D/o Arun Kumar Mahto. Both presently resident of Village- Sundarpur Ratwara, P.O.- Ratwara, P.S.- Piar (Hatha O.P., District- Muzaffarpur and permanent address Village- Pilkhi, P.O.- Pilkhi Gajpati, P.S.- Sakra, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh
For the Respondent/s : Mr. Jitendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

8 09-01-2019 Heard the parties.

I.A. No.1413 of 2018 is a petition for condonation of delay in filing of this criminal revision application against the order dated 17.03.2015 passed by the learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No.301 of 2013.

The criminal revision was filed on 02.05.2018.

Submission of the petitioner is that since the impugned order was passed ex parte without service of any notice on the petitioner, hence, the petitioner had no knowledge of the case prior to 16.03.2017, when he was arrested on the basis of distress warrant. Subsequently, negotiation was going



on between the parties for amicable settlement of the dispute. In the circumstances, the petitioner could not file the criminal revision within time.

After hearing the parties, in my view, the delay has sufficiently been explained. Hence, the same is condoned.

The parties are agreeable that this matter be disposed of at this stage itself with direction to the court below to expeditiously decide the matter.

The lower court record would reveal that there is no proper service of summons on the petitioner. The service report simply says that the petitioner was not present at the place of address. Hence, a copy of the same was pasted on the house of the petitioner. There is no mention that there was no chance of the petitioner meeting in near future, nor there is any explanation, as to why the petitioner was not likely to meet in a day or two.

Since the impugned order has been passed ex parte without proper service of notice on the petitioner, the same is being set aside and the learned Principal Judge, Family Court, Muzaffapur is directed to expeditiously decide the matter of maintenance preferably within two months from the date of receipt of copy of this order.



The order has been passed in presence of the parties. Hence, they are directed to co-operate. If any of the parties do not co-operate, the court below shall proceed ex parte without any further notice. The parties shall appear before the court below on 21.01.2019.

The Registry is directed to send this order as well as lower court record within three days to the court below.

(Birendra Kumar, J)

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