

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.577 of 2018**

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Sanjay Kumar Son of Late Lakshman Prasad Resident of Old Dharmshala
Road Nabinagar, P.O. - Nabinagar, Police Station - Nabinagar, District -
Aurangabad Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Urmila Kumari @ Urmila Devi wife of Sanjay Kumar daughter of Late Jhamar Prasad
3. Ipsa Shruti
4. Nischay Kumar Both are minor daughter and son of Sanjay Kumar under guardianship of their mother Urmila Kumari @ Urmila Devi. All are residing at New Housing Colony, M.I.G. - 95, Chandwa, P.O. - Chandwa, P.S. - Ara Nawada, District - Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bhanu Pratap Singh, Adv
For the O.P No. 2	:	Mr. Suryakant Kumar, Adv
For the State	:	Mr. Nityanand, APP

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 11-03-2019

I.A. No. 1567 of 2018

This interlocutory application has been filed for condoning the delay of about one year five months and twelve days in filing this petition.

For the reasons mentioned in the application, the prayer made therein, is allowed and the delay of about one year



five months and twelve days in filing this petition is hereby condoned.

The interlocutory application stands allowed.

Criminal Revision No. 577 of 2018

Heard parties.

2. This criminal revision application has been filed for setting aside the ex-parte judgment and order dated 03.09.2016 passed by Principal Judge, Family Court, Bhojpur, Ara in Maintenance Case No. 83 of 2015 in which by ex-parte judgment and order passed under Section 125 of the Cr.P.C has allowed maintenance of Rs. 10,000/- to the O.P No. 2 and Rs. 5000/- each to the O.P. Nos. 3 and 4 per month.

3. Opposite Party No. 2 who is the wife of petitioner had filed a maintenance case under Section 125 of the Cr.P.C giving rise to Maintenance Case No. 83 of 2015 for grant of maintenance to her and her two minor children as they are not being maintained by the petitioner and they do not have any source of income to maintain themselves. It has been further stated by the Opposite Party No. 2 that she was being tortured by the petitioner in her matrimonial home and also attempt was made to kill her as such she was constrained to come to her parents house with her children and since then she is living in



rented house along with her children.

4. Petitioner is working as Senior Manager in Electricity Department, Muzaffarpur, and is getting good salary as well as there is income from agriculture also. Notices were issued to petitioner but he did not appear and thereafter notices were published in local newspaper but since petitioner could not get any information with respect to maintenance case and same was heard ex-parte and decided in his absence.

5. It has been submitted on behalf of petitioner that he had no knowledge about the maintenance case and no notices were ever served upon him and even after publication of notice in local newspaper he could not get any information with respect to pendency of maintenance case.

6. After hearing learned counsel for the petitioner, learned counsel for the O.P. No. 2 and learned counsel for the State, it appears that petitioner has remedy of filing a petition before the Principal Judge, Family Court, Bhojpur, Ara, for setting aside/cancelling the order of maintenance on the ground that no notices were validly served upon him and he had no knowledge about pendency of maintenance case and the maintenance case was decided ex-parte. As petitioner has remedy of filing an application for cancelling the maintenance



order before the Family Court, petitioner may avail the remedy and approach the Family Court, for setting aside/cancelling the order of maintenance. If such petition is filed on behalf of petitioner, same shall be considered by the Family Court and if the court is satisfied that no notices were validly served upon petitioner or he had no information about the maintenance case, the Family Court would consider said petition of petitioner if filed within four weeks from the date of order passed by this Court and shall pass final order after hearing both the parties preferably within three months from date of filing of said petition for cancellation of ex-parte order.

7. With above observation and direction, the criminal revision petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.03.2019
Transmission Date	17.03.2019

