

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.56 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Bhojpur

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Md. Hussain @ Hussain Miya, S/o Jahiruddin @ Jawahir Miya, R/o Village and Mouza-Thori Pandepur, P.S. and P.O.-Murar, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shaleha Khatun W/o Md. Hussain @ Hussain Miya, D/o Abdul Majeed R/o Village-Thori Pandepur, P.S. and P.O.-Murar, District-Buxar. At present resident of Village and Mouza-Belvania, P.S-Bihiya, District-Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Brajesh Prasad Gupta, Adv.
For the State	:	Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 14-07-2022 Heard learned counsel for the petitioner on the petition for limitation of delay of more than four years in filing of the present revision application.

Learned counsel for the petitioner submits that the present revision application has been filed for setting aside the judgment and order dated 09.06.2016 passed by the learned Principal Judge, Family Court, Bhojpur, Ara in Maintenance Case No.39 of 2014 by which the learned Principal Judge has directed the husband-petitioner to pay a sum of Rs.6,000/- to the applicant-wife and Rs.2,000/- to each of the two minor children.

It is submitted that in the court below even though the opposite party-husband had appeared and filed a show cause but



his lawyer did not appear to cross-examine the applicant-wife and her father who deposed as applicant witness no.2.

Learned counsel has mainly submitted before this Court that the petitioner has no sufficient income to pay the amount in question. It is, however, pointed out that the applicant and her witness deposed in the learned court below that the petitioner has got a monthly income of Rs.40,000/- from his business of tent, clothes and other contract work and that he had developed wrong habit of taking liquor and had illicit relationship with another women.

As regards the delay of over four years in filing of the present revision application, learned counsel submits that the order passed by the learned court below is an ex-parte order and it was not in the knowledge of the petitioner. He heard rumour about the order and then only he could come to know about this. It is submitted that the petitioner applied for the certified copy of the impugned judgment/order on 26.02.2020 and preferred the present revision application on 15.06.2020.

This Court has considered the submissions advanced on behalf of the petitioner. It appears that the very first submission of learned counsel for the petitioner that it is an ex-parte judgment and he was not aware of the same is to be



understood in the light of the circumstances disclosed in the impugned judgment. The learned court below has recorded that the notices were sent to the opposite party-husband through ordinary as well as registered post and when the opposite party did not appear then the notice was published in the newspaper, still he did not appear, therefore, the court had no option but to fix the case for ex-parte hearing.

On the face of the fact that the opposite party did not appear in the proceeding despite paper publication of the notice and thereafter he did not take care of the impugned judgment and is neglecting his wife and minor children are such that the huge delay of more than four years in filing of the revision application cannot be condoned.

The limitation petition is dismissed as a result whereof the revision also fails.

The learned Principal Judge, Family Court, Bhojpur, Ara shall proceed to enforce the judgment in accordance with law.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

