

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(BEFORE THE RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1117 of 2018**

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

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Md. Nawad @ Md. Munna Navab @ Md. Nabab Abdul Sattar Resident of
village-Kataulia Urf Harpur Gopi, Police Station-vaishali, District-Vaishali

... .. Petitioner

Versus

Rubana Begum Md. Nawab Resident of village-Kantaulia, Police Station-
Vaishali, District-Vaishali

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No. 2, Advocate
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 02-09-2022 Heard Mr. Manish Kumar No. 2, learned counsel for
the petitioner.

This revision application has been preferred on
19.09.2018 for setting aside the judgment dated 06.07.2011
passed by learned Principal Judge, Family Court, Vaishali at
Hajipur in Maintenance Case No. 105 of 2009 whereby and
whereunder the learned court has been pleased to allow a
monthly maintenance of Rs. 5,000/- per month for the applicant-
wife and her children which will be payable with effect from the
date of filing of the case i.e. 05.11.2009 within three months
from the date of the order in three equal monthly installments.

An application seeking condonation of delay has been
filed more than one year after filing of the revision application.



It is stated therein that the order had been passed behind the back of the petitioner and he had no knowledge of the passing of the order dated 06.07.2017, therefore, he could not challenge the same before any higher court. It is further stated that the petitioner received a notice in Misc. Case No. 29 of 2018 filed by the opposite party for payment of her maintenance amount then he learnt about passing of the order and thereafter he approached the Advocate at Hajipur who made an enquiry and perused the record and thereafter certified copy of the order had been obtained.

Learned counsel for the petitioner submits that so far as the first part of the impugned judgment by which direction has been issued to pay monthly maintenance of Rs. 5,000/- per month, the petitioner would not challenge the same but he is aggrieved by and dissatisfied with the latter part of the judgment by which the learned Principal Judge has allowed the maintenance with effect from the date of filing of the case i.e. 05.11.2009.

Learned counsel further submits that this petitioner is living at Mumbai and that is why he could not know about the notice sent in this case on his village address. It is submitted that in fact the opposite party in her statement in the court below



also stated that the petitioner is residing at Mumbai. It is, thus, his submission that the delay should be condoned and the revision application be heard and the latter part of the impugned judgment by which the maintenance has been allowed with effect from the date of filing of the application be set aside.

This Court has perused the application seeking condonation of delay as well as plea taken by the petitioner in the revision application simultaneously in view of the previous order of this Court directing that the question of limitation shall be considered at the time of admission.

On perusal of the interlocutory application, this Court finds that neither in his affidavit nor in the body of the application anywhere it is stated that the petitioner was residing outside his village or that the notice sent on his village address was not served upon him. The petitioner in his affidavit disclosed his address as that of village-Kataulia Urf Harpur Gopi, Police Station-vaishali, District-Vaishali. He has declared himself to be the resident of the same. His Aadhar Card is enclosed with the affidavit is also containing the same address. Apart from that, this Court finds that the petitioner has disclosed the basis of his knowledge as that of the notice served upon him in Misc.Case No. 29 of 2018. Copy of the said notice has been



enclosed with the revision application as Annexure '3'. The address given in the notice is that of the village of the petitioner and admittedly this notice had been duly received by him.

In the revision application also he has given his address of village and nowhere in his petition he has disclosed about his living at Mumbai and his address of Mumbai. Even if, this Court assumes for a moment that the submission of learned counsel for the petitioner that the petitioner is residing at Mumbai, it is evident from the materials on the record that the petitioner is having his permanent place of residence at village and he has neither disclosed his address of Mumbai to the applicant-wife nor to this Court.

Under these circumstances, this Court is of the considered opinion that if he can get knowledge of the Misc. Case No. 29 of 2018 after receipt of notice in the said case on his village address, there is no reason why he could not be said to have knowledge of the maintenance case as well. The impugned judgment discloses that after this petitioner did not appear in the maintenance case despite sending notices by both modes, the applicant-wife affected substituted service of notice by paper publication in the local newspaper having wide circulation in the area. This fact has also not been denied.



Learned counsel for the petitioner has, on query informed that the petitioner has not paid any money so far under the impugned judgment meaning thereby that for almost one decade the petitioner has been able to avoid payment of monthly maintenance to the applicant-wife and his children and left them to live in vagaries by causing all kinds of hardships in their life. He has not shown his bonafides as a law abiding citizen.

The fact that the petitioner orally contends before this Court through his lawyer that he is residing at Mumbai but does not disclose it in his petition anywhere further indicates his conduct and attempt to withhold complete information from the Court.

Further, the grievance of the petitioner with respect to the latter part of the order is contrary to the law laid down by the Hon'ble Supreme Court in the case of **Rajnish versus Neha and another** reported in **(2021) 2 SCC 324** wherein the Hon'ble Supreme Court has held that the maintenance is to be allowed from the date of the application.

In the totality of the circumstances, this Court finds no plausible much less sufficient ground to condone the delay. This limitation petition as well as the revision application stand dismissed.



Since this Court has noticed that the petitioner has withheld material information with regard to his living at Mumbai and has avoided payment of maintenance to his wife and children for a decade, this appears to be a case in which this Court deems it just and proper to proceed against him for withholding/suppressing material information from this Court. This Court, therefore, calls upon him to show cause as to why an appropriate proceeding for contempt be not initiated against him. Such show cause shall be filed within four weeks from today.

In the meantime, the petitioner shall comply with the impugned judgment.

List this matter under heading for orders after four weeks i.e. on 10th of October, 2022.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

