

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.870 of 2018

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

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Md. Murshid @ Murshid Son of Md. Abdul Salam @ Salam, Resident of
Villahe- Gokhlapur, P.S.- Narpatganj, District- Araria.

... .. Petitioner

Versus

1. The State Of Bihar
2. Bibi Sabana Khatoon, W/o Md. Murshid @ Murshid, D/o Md. Asanoor,
3. Heena Perween, D/o Md. Murshid @ Murshid, (Minor daughter under the guardianship of O.P. No.2), Both are residents of Village- Pithaura, P.S.- Narpatganj, District- Araria.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Naushad Uzzoha, Advocate
For the State	:	Mr. Ram Bilash Roy Raman, APP
For the Opposite party	:	Mr. Mukesh Kumar Rana, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 13-07-2022 Heard learned counsel for the petitioner and learned
counsel for opposite parties as well as Mr. Ram Bilash Roy
Raman, learned APP for the State.

The petitioner in the present case is seeking setting
aside of the judgment and order dated 25.01.2018 passed by
learned Principal Judge, Family Court, Araria in Maintenance
Case No. 16 of 2017 by which the learned court has allowed a
maintenance amount of Rs.5,000/- per month to opposite party
no. 2 and Rs. 2,000/- per month to opposite party no. 3.

It appears on perusal of the impugned judgment that
the present petitioner though appeared in the learned court
below and filed a written statement but thereafter he left his



pairvy and despite several opportunities granted to him, he did not produce any witness to support his pleadings and the written statement.

In course of hearing, learned counsel for the petitioner has just reiterated the stand of the opposite party no. 2-petitioner as discussed in the impugned judgment.

Learned counsel further submits that in fact he has no further instruction in the matter and is unable to make any other or further submission in this regard.

Learned counsel further admits that the petitioner is not giving a single farthing to his wife and the minor daughter even about four and half years have gone past from the date of the impugned judgment.

Learned counsel for the applicant-wife and the minor daughter who are O.P. Nos. 2 and 3 respectively submits that the present revision application is barred by limitation. It is submitted that in the learned court below the petitioner was aware of the case, he appeared and filed his written statement but left the pairvy of the case. This revision application has been preferred with a delay of 5 months and 25 days and the reasons shown therein are not cogent and sufficient to condone the delay in the given kind of conduct of the petitioner.



Learned counsel submits that the amount allowed as maintenance to O.P. Nos. 2 and 3 cannot be said to be an exaggerated amount as even an unskilled worker is earning Rs.300-400/- per day and in this case the petitioner has himself made a statement that he works in Delhi for his livelihood, the rate of wages at Delhi is definitely much more than the areas in the State of Bihar. It is submitted that even on this score, the impugned judgment needs no interference.

Having heard learned counsel for the petitioner as also learned counsel for O.P. Nos. 2 and 3 and learned APP for the State, this Court is of the considered opinion that in order to give a hearing on the merit of the case, it is necessary to consider the application seeking condonation of delay. The petitioner has submitted that he was working at Delhi and he came in the month of July only whereafter he contacted his lawyer to file the present revision application. This Court accepts the reasons shown and condones the delay.

So far as the merit of the case is concerned, this Court finds that neither in the learned court below nor before this Court the petitioner is able to satisfy as to why his wife and minor daughter be not allowed maintenance for their sustenance. It is not the case of the petitioner that they are



having sufficient income in their hand to maintain themselves.

The petitioner works at Delhi, therefore, his wages at Delhi is definitely be much more than the rate of wages in the State of Bihar. Since he is not disclosing his true and correct income and is trying to withheld the same, this Court has no option but to take a view on the best assessment of the income of the petitioner.

This Court is of the considered opinion that in the present day's economic conditions and the price index of the country, an award of Rs.5,000/- and Rs. 2,000/- to O.P. Nos. 2 and 3 respectively cannot be said to be an unreasonable much less an exaggerated amount. No ground for interference has been made out.

The learned Principal Judge, Family Court, Araria shall enforce the judgment and order by which the maintenance has been awarded to O.P. Nos. 2 and 3 and such enforcement be done expeditiously.

This application stands disposed of accordingly.

(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'.

