

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.486 of 2017

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

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Mantu Thakur S/o Late Dukhai Thakur, R/o Bhurri, P.S.- Balrampur, District-
Katihar.

... .. Petitioner

Versus

1. The State Of Bihar
2. Shobha Devi, W/o Mantu Thakur, D/o Kishan Lal Thakur.
3. Badal, S/o Mantu Thakur through his mother and guardian Shobha Devi.
Both Resident of Village- Darha, P.S.- Dagarua, District- Purnea.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.Sri Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-12-2022 No one appears on behalf of the petitioner.

Considering that this revision application is of the year 2017 and it relates to payment of maintenance to a neglected woman and child, this Court has taken up this matter for consideration on it's own merit on the basis of the materials available on the record.

This Court has recorded earlier in other cases that how in these kind of cases relating to maintenance, in large number of cases the petitioners are not putting their appearance. This is one of those cases.

The petitioner seems to be aggrieved by and dissatisfied with the judgment dated 27.07.2015 passed by learned Principal Judge, Family Court, Purnea in Maintenance



Case No. 112/2011 whereby and whereunder the learned Principal Judge, Family Court, Purnea has allowed a monthly maintenance of Rs. 3000/- to the opposite party nos. 2 & 3 with effect from the date of filing of the application. The husband-petitioner has been directed to pay the maintenance amount by 15th day of each month together with the arrears of maintenance within a period of three months from the date of order.

The impugned order would reveal that the applicant-wife and the minor son of the petitioner had filed application under Section 125 Cr.P.C. praying therein to direct the petitioner to pay Rs. 3000/- per month as maintenance allowance to her and her minor son.

On perusal of the impugned order, it appears that despite service of summon the opposite party-petitioner did not appear but when the case was fixed for *ex parte* hearing and evidence on behalf of the applicant-wife, the opposite party-petitioner appeared and filed Vakalatnama. He was permitted to participate in the case on payment of cost of Rs. 2500/- to the applicant. The opposite party-petitioner neither paid the said cost amount nor filed any show cause to the maintenance petition and even as the opposite party did not pay the cost amount the applicant had produced P.W.2 Veena Devi for cross



examination but no one appeared on behalf of the opposite party to cross examine the witness, therefore, the witness was discharged. The opposite party left the pairvy of the case and in the given circumstance the learned Family Court proceeded to consider the maintenance application which remained uncontested.

In support of her claim the applicants produced three witnesses and all of them supported the case of the applicants. The learned court has, thereafter concluded that the applicants have no sufficient income to maintain themselves whereas the husband-petitioner is running a saloon from which he earns Rs. 10,000/- per month. It has come in evidence that the petitioner has performed a second marriage about 1½ years back with one lady from whom he has also got a son.

In the given kind of materials available on the record, the learned Principal Judge, Family Court has allowed the maintenance application as stated above.

This Court further finds that this revision application has been filed with a delay of one year six months. In the petition seeking condonation of delay, it is stated that the petitioner had no knowledge about the judgment and no counsel appeared on behalf of the petitioner when the judgment was



passed. On the face of the discussions available in the impugned order showing how this petitioner appeared at a belated stage in the case but thereafter left pairvy of the case and did not take care of the proceedings, this Court finds that the reason provided in the application seeking condonation of delay are not cogent reasons and cannot be said to be sufficient and good reasons to condone the delay.

In the totality of the fact and circumstances of the case, this Court is of the opinion that this application is liable to be dismissed *in limine* on the ground of limitation, keeping in mind the nature of the case and the fact that the petitioner is neglecting his wife and minor child and have kept them engaged in litigation all these years.

This Revision Application is, thus, dismissed on the ground of limitation. As a result, the revision application cannot proceed. It is dismissed, accordingly.

Since the maintenance case was lodged in the year 2011 and there is no material to show that the husband-petitioner has obeyed the impugned order, this Court deems it just and proper to direct the learned Principal Judge, Family Court, Purnea to enforce the impugned judgment/order as expeditiously as possible and in case it is found that the



petitioner has not paid the amount in terms of the impugned judgment, the entire outstanding shall be realized together with a cost of Rs. 25,000/- which would be payable to the applicant-wife and her minor son.

(Rajeev Ranjan Prasad, J)

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