

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.62 of 2023**

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

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Md. Taiyab Kuraishi @ Md. Tayyab Quraishi S/o Md. Munna Kuraishi, R/V-  
Ramgarh, P.S.- Ramgarh, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

Gulshan Parveen W/o Md. Taiyab Kuraishi @ Md. Tayyab Quraishi, D/o Late  
Jalil Quraishi, R/o Mohalla- Mainpura, P.O. and P.S.- Danapur, District-  
Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Parwej Khan, Adv.  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 17-04-2023**

**I.A. No. 1 of 2023**

Learned counsel for the petitioner submits that  
there is delay in filing the present Cr. Revision of 246 days for  
which a limitation petition has been filed.

On the grounds mentioned in the limitation  
petition, this Court has condoned the delay in filing the present  
Cr. Revision and considering this case on merit.

Heard learned counsel for the petitioner.

The present Cr. Revision Application has been filed  
for setting-aside the judgment/ order dated 07.02.2022 passed  
by Additional Principal Judge, Family Court, Patna in  
Maintenance Case No. 62(M) of 2013 [C.I.S. No. 1493(M) of



2014], by which, petitioner was directed to pay maintenance of Rs.8,000/- per month to his wife i.e. opposite party in addition to pay arrear maintenance within two years in 24 installments with Rs.10,000/- one time as cost of case.

Learned counsel for the petitioner submits that petitioner is in service and he is completely dependable upon his advocate. He further submits that petitioner is a law abiding citizen, his lawyer has taken *vakalatnama* and not defended him properly. Learned counsel submits that petitioner has every respect for his wife but his wife has unnecessarily left the petitioner and does not want to live with him, as such, there is gross violation of Section 125 (4) of Cr.P.C. He submits that the opposite party has refuses to live with petitioner and, therefore, not entitle for any maintenance.

It transpires from the record that after issuance of notice, the petitioner appeared before Additional Principal Judge, Family Court, Patna through his advocate and instead of filing the detail written statement, he has filed a short show cause as per the advise. Petitioner use to work in Military as a driver but due to his advocate, he could not defend his case.

The plea as laid down under Order 9 Rule 13 of C.P.C. or under Section 126(2) of Cr.P.C. for setting-aside the



ex-parte order is not available to the petitioner as notice was validly served upon the petitioner and he has appeared and started defending his case through his advocate, but further he could not defended his case only due to ignorance of his advocate and he has not taken any action against the advocate for the same, as such, this Court is not inclined to interfere in the said order and the present Cr. Revision Application stands dismissed.

But this Court is granting liberty to the petitioner that if the points mentioned under Section 125(4) of Cr.P.C. are available to him, he is at liberty to file the application afresh before the Principal Judge, Family Court, Patna and Principal Judge, Family Court, Patna is directed to listen granting opportunity on his petition filed under Section 125(4) of Cr.P.C. and pass order in accordance with law.

**(Dr. Anshuman, J.)**

Ritik/-

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