

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1196 of 2017

Arising Out of PS. Case No.-685 Year-2014 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Rakesh Kumar S/o Hira Lal Sah, R/o Laheri Tola Gali NO.1, P.S.- Godda,
District- Godda Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bandana Devi W/o Rakesh Kumar D/o Late Jamuna Prasad Sah, R/o
Mohalla- Naya Tola, P.S.- Katihar, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sudhir Kumar
For the State	:	Mr. Chandra Bhushan Prasad
For the O. P. No. 2	:	Mr. Suresh Prasad Sah @ Barnwal

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 21-09-2023 1. I. A. No. 2620 of 2017 has been filed by the petitioner,
under Section 5 of the Limitation Act, seeking
condonation of delay of 15 months in preferring the
present revision application against the order, dated
06.06.2016, passed by the learned Sessions Judge,
Katihar, in Criminal Appeal No. 21 of 2016.
2. Heard learned Counsel for the parties concerned.
3. Having considered the reasons assigned in the present
limitation petition and having heard learned Counsel for
the parties, this Court is satisfied that the petitioner was
prevented by sufficient causes from preferring the
revision application within time.



4. In view of the above, the delay of 15 months, in preferring the revision application, is hereby condoned.
5. I. A. No. 2620 of 2017 shall stand disposed.
6. The petitioner has filed the present revision application being aggrieved by the order, dated 06.06.2016, passed by the learned Sessions Judge, Katihar, in Criminal Appeal No. 21 of 2016, whereby the appeal of the petitioner has been dismissed and the order of maintenance of Rs. 5,000/-, dated 03.03.2016, passed by the learned Sub Divisional Judicial Magistrate, Katihar, in C. A. Case No. 685 of 2014, has been affirmed.
7. The brief facts, giving rise to the present application, is that a complaint case, bearing C. A. No. 685 of 2014, under Section 12 of the Domestic Violence Act, 2005, has been filed by the Opposite Party No. 2. The petitioner and the Opposite Party No. 2 are legally wedded couple. Out of their wedlock, a son was born. The family of the petitioner demanded Rs. 1,00,000/- in the name of treatment of their son, who was suffering from heart disease, and then the dispute arose and the relationship between both of them got strained.
8. The Opposite Party No. 2 filed Complaint Case No. 3929



of 2008, under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, which is pending. During the pendency of C. A. No. 685 of 2014, the petitioner was directed to pay interim maintenance amount of Rs. 10,000/- to Opposite Party No. 2, which was challenged by the petitioner, before the learned Sessions Judge, Katihar, in Criminal Appeal No. 48 of 2014, which was dismissed with observation to the petitioner to approach the concerned Court and the concerned Court was directed to consider the case of the petitioner while passing the final order.

9. Pursuant thereto, the petitioner filed a detailed show cause on 07.08.2015 stating the entire facts and circumstances and pendency of litigation filed by the Opposite Party No. 2.
10. By order, dated 03.03.2016, the learned Chief Judicial Magistrate, Katihar, granted monetary relief to the Opposite Party No. 2 and directed the petitioner to pay a sum of Rs. 5,000/- per month to Opposite Party No. 2, which was again challenged by the petitioner before the learned Sessions Judge, Katihar, in Criminal Appeal No. 21 of 2016, which got dismissed on 06.06.2016. The



order, dated 06.06.2016, has been challenged by the petitioner before this Court.

11. The argument of learned Counsel for the petitioner is that the petitioner is unable to pay monthly benefit awarded to the Opposite Party No. 2 inasmuch as he is very poor, having no fixed income and is earning his livelihood by imparting tuition. He further submits that due to the treatment of his son, he is unable to pay the huge amount of Rs. 5,000/- to the Opposite Party No. 2. He further submits that the son of the petitioner is living with him, who has undergone heart surgery in the year 2008 and the petitioner is taking all care, including the educational expenses of his son. The petitioner is also spending a lot of money to attend the cases filed by Opposite Party No. 2 at Katihar inasmuch as the petitioner is living with his ailing son in the district of Godda (Jharkahnd). He further submits that the petitioner is ready to keep his wife with full honour and dignity.
12. The learned Sessions Judge, Katihar, while dismissing the appeal against the award of maintenance, has come to the conclusion that the conduct of the petitioner is to linger the issue of grant of monetary benefit to the Opposite



Party No. 2-wife and he wants to keep the matter hanging between one Court to another in order to frustrate the basic object of the provisions of interim/monetary maintenance.

13. I have heard learned Counsel for the parties concerned and have gone through the materials available on record, including the impugned order and the order passed by the learned Sub Divisional Judicial Magistrate, Katihar.
14. From perusal of the order, dated 03.03.2016, passed by the learned Sub Divisional Judicial Magistrate, Katihar, it transpires that on the basis of the evidence adduced on behalf of the parties, the learned Magistrate has come to the finding that the income of the petitioner is much more than that of the income disclosed in the affidavit. In the affidavit, the petitioner has disclosed his income as Rs. 4,000/- per month; whereas, from the materials available on record, it appears that the petitioner is a member of joint family, which has three business establishments, namely, Krishna Diamond Jewellery, Amresh Mobile Centre and Diamond Mobile Centre. It is not the case of the petitioner that relevant piece of evidence has been left out and irrelevant piece of evidence has been considered



by the learned Magistrate and the order passed by the learned Sessions Judge, Katihar, is perverse.

15. Accordingly, I come to the conclusion that the impugned order of maintenance does not suffer from any material illegality or legal infirmity and as such, does not require any interference by this Court.

16. This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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