

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.911 of 2017

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

=====

Sharif Ansari son of Md. Shabbir Alam, Resident of Alam Chak, Police Station- Mansoor Chak, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sultana Begum @ Nagina, wife of Md. Sharif Ansari and D/o Md. Riyaz,
3. Md. Meraz, son of Sharif Ansari
4. Ruma Khatoon, D/o Sharif Ansari, Both minors under guardianship of Opposite Patry No., namely Sultana Begum @ Nagina.
All are resident of Alam Chak, Police Station- Mansoor Chak, District- Begusarai, presently residing at Village P.O.- Damodarpur, P.S.- Bhagwanpur, District- Begusarai (Bihar).

... .. Opposite Parties

=====

Appearance :

For the Petitioner/s	:	Mr. Murari Prasad Sinha, Advocate
For the Respondent/s	:	Mr. Sri Asharaf Ansari, APP
For the O.P. No.2	:	Mr. Gajendra Kumar Jha-2, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 28-04-2023

I.A. No. 2024 of 2017

It has been mentioned that there is delay of about 3 months 23 days in filing the limitation.

Counsel for the petitioner submits that he has handed over the file to his counsel, who upon passing the order impugned not informed to the petitioner and he received late information about passing of the order and as soon as he received the order, he has preferred criminal revision before this court.

Upon considering the limitation petition and points mentioned in it, thus limitation petition vide I.A. No. 2024 of 2017 is hereby allowed on merit.

Heard learned counsel for the petitioner and learned counsel for the opposite party No.2 as well as learned counsel for the State.

Counsel for the petitioner submits that order dated 08.02.2017 passed in Maintenance Case No. 53M of 2015 has been challenged. He fairly submits that the order of ad-interim maintenance in which direction to pay Rs.5000/- per month to the opposite party was made and it has to continue with effect from 17.04.2015 till the case is disposed off. It transpires that the said order dated 08.02.2017 was passed in presence of both petitioner and O.P. and court is upon going through the documents filed by them has passed ad-interim maintenance of Rs.5000/-.

Counsel for the petitioner is not in a position to raise any point of legality, propriety and correctness, therefore, this court is not inclined to interfere in the order.

But on the other hand, he submits that the petitioner is willing to keep his wife, if she is willing to do.

Counsel for the opposite party submits that on the

early occasion also during pendency of maintenance case, negotiation took place and O.P. No.2 in faith of his good behaviour, closed the case and went with her husband with children but the behaviour of petitioner was not change, therefore, the new matrimonial case has been filed. He further submits that during pendency of the present criminal revision also O.P. No.2 visited to the house of the petitioner so that his behaviour may change but still his behaviour has not been changed and O.P. No.2 returned back from her husband's house.

Petitioner has not raised any point of legality, correctness or propriety as per Section 19(4) of Family Court Act, 1984. Hence, this Court is not inclined to interfere in the said interim order dated 08.02.2017 passed in Maintenance Case No. 53M of 2015 by the Principal Judge, Family Court, Begusarai and direct the Principal Judge, Family Court, Begusarai to expedite, so that the final order of maintenance may be passed and if the final order has already been passed, then in that case he shall do the needful so that execution of decision of final maintenance order be complied by way of issuance of process under Form 18/19 of Schedule-II of Cr.P.C., 1973 as well as in the light of **Sarfaraj Alam @ Md. Sarfaraj**

Vs. State of Bihar & Ors. reported in **2023 (1) PLJR 756.**

Counsel for the petitioner submits that as per his information the matrimonial case has been dismissed for default, if it is so Principal Judge, Family Court, Begusarai ought to remember that in the matrimonial case the order has to be executed, there is no question of dismissal till realization of the order passed by the matrimonial case. Keeping this point in the mind, the Principal Judge, Family Court, Begusarai shall restore the matrimonial case at the earliest and start the process of realization of the amount passed under Section 125 of the Cr.P.C. in the light of the observation made above.

With the aforesaid observation, the present Criminal Revision Application is hereby dismissed.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	