

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.149 of 2023**

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

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Sunil Kumar @ Sunil Kumar Paswan S/o Late Rup Narayan Paswan R/v-  
Barkurwa Motihari, P.S.- Town Motihari, District- East Champaran

... .. Petitioner

Versus

Puja Devi D/o Prem Lal Paswan the then W/o Sunil Kumar and present W/o  
Rakesh Kumar @ Rakesh Kumar Jha, S/o Ramesh Chandra Jha R/V-  
Sahbajpur near Middle School Ahiyapur, P.S.- Ahiyapur, District-  
Muzaffarpur, Present R/V- Nazirpur, P.S.- Ahiyapur, District- Muzaffarpur

... .. Respondent

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**Appearance :**

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| For the Petitioner/s | : | Mr. Shovendra Kumar, Advocate<br>Mr. Vijay Kumar Mishra, Advocate |
| For the Respondent/s | : | Mr. Shashank Chandra, Advocate<br>Ms. Smriti Verma, Advocate      |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

8      16-01-2024                      **I.A. No. 1 of 2023**

This application has been filed seeking condonation of a delay of 149 days in filing of the revision application. The petitioner claims that he could not get knowledge of passing of the order dated 20.06.2022 in Miscellaneous Case No. 73 of 2020 by the learned Principal Judge, Family Court, as a result whereof there was some delay on his part in making application for obtaining the certified copy of the order dated 20.06.2022. He applied for the certified copy on 14.10.2022 and the same was made available to him on 19.10.2022. Thereafter because of his weak health condition, he could not approach any Advocate of the High Court for about two months. It is submitted that the delay on the part of the petitioner is not intentional, hence it may

be condoned and the case be heard on its own merit.

2. The interlocutory application has been strongly contested by the learned counsel for the Opposite Party No. 2. It is submitted that the petitioner has not approached this Court with *bonafides*, his pleadings lack confidence and are not inspiring. Learned counsel submits that this petitioner is a government servant, who is presently working as a Peon in the Primary Health Centre at Dhaka in the District of East Champaran. His submission is that he could not get knowledge of the passing of the order dated 20.06.2022 but under what circumstances he could not get knowledge of the order is not even whispered in the petition. There is no statement that his lawyer did not inform him of the order passed. The statements regarding lack of knowledge is completely vague and by no stretch of imagination it is worth reliable.

3. Learned counsel further submits that the another ground taken in the petition is that due to weak health condition, he could not approach any Advocate of the High Court for two months. It is submitted that the petitioner who was posted as a Peon in the Primary Health Centre, Dhaka, East Champaran has not enclosed his attendance register or any other document/ certificate of the employer to show that he was not well and due

to his weak health he was not attending his office. It is submitted that if the petitioner was able to attend his office, there is no reason why he cannot approach a lawyer of the High Court for two months. Moreover, no medical document showing that the petitioner had developed any health issue has been enclosed with the petition. In fact, the statement regarding the weak health condition is a completely bald statement without there being any material to support the same.

4. It is further submitted that the third ground taken by the petitioner is that he is a financially weak person but again it is an admitted position that he is a government servant and is getting a good amount of salary which would at least enable him to contest a case. It is lastly submitted that the petitioner has moved this Court seeking setting aside of the order issuing distress warrant against him. The fact is that the petitioner has not paid the Opposite Party No.2 since the year 2019. It is pointed out that even as the maintenance order is in favour of Opposite Party No.2 and her minor son, the minor son has not been impleaded as party in this case and at the same time not a single farthing is being paid to him.

5. In the given facts and circumstances of the case, learned counsel for the Opposite Party No.2 submits that the

petitioner does not deserve condonation of delay in filing of the revision application. Reliance in this regard has been placed on the judgment of the Hon'ble Supreme Court in the case of **Vasavraj & Anr. Vs. Special Land Acquisition Officer** reported in **(2013) 14 SCC 81**.

### **Consideration**

6. Having heard learned counsel for the petitioner and learned counsel for the Opposite Party No.2 as also on perusal of the records, this Court finds force in the submission of learned counsel for the Opposite Party No.2. The Court is normally liberal in condoning the delay but in the opinion of this Court, it is not one of those cases in which the delay in filing of the revision may be condoned. It is not denied that petitioner is a government servant and he is posted as a Peon in the Primary Health Centre at Dhaka in the District of East Champaran. In the petition seeking condonation of delay, he makes a completely vague statement that he could not get knowledge of the order but there is no averment that his lawyer or the lawyer's office did not inform him. The statements of not getting knowledge loses its credibility in absence of there being any clear statement duly supported by the Advocate certificate. Further, this Court finds that he has taken a plea of his weak health but no medical

document either of any blood tests or pathological test or any kind of prescription of a Doctor showing him under treatment for two months has been brought on record. This Court would, therefore, not believe the statement with regard to weak health of the petitioner and on the basis of bald statements the delay cannot be condoned. The plea of his being in a poor financial condition is also liable to be rejected on finding that he is a government servant getting a good amount of salary and plea of financial constraint for not taking appropriate steps for filing of the revision application is not acceptable.

7. In the case of **Vasav Raj** (*supra*), the Hon'ble Supreme Court has discussed the meaning of the word "sufficient cause" in paragraph '9', '10' and '12' of the judgment which are being reproduced hereunder for a ready reference:-

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court

concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See *Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee*<sup>6</sup>, *Mata Din v. A. Narayanan*<sup>7</sup> *Parimal v. Veena*<sup>8</sup> and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*<sup>9</sup>).

10. In *Arjun Singh v. Mohindra Kumar*<sup>10</sup> this Court explained the difference between a “good cause” and a “sufficient cause” and observed that every “sufficient cause” is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of “sufficient cause”.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”

8. This court would follow the principles of the law of limitation as laid down by the Hon’ble Supreme Court through its judicial pronouncements. The statute of limitation is a statute framed and

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6. AIR 1964 SC 1336

7. (1969) 2 SCC 770 : AIR 1970 SC 1953

8. (2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1 : AIR 2011 SC 1150

9. (2012) 3 SCC 157 : (2012) 3 SCC (Civ) 24 : AIR 2012 SC 1629

10. AIR 1964 SC 993

founded on public policy and it’s aim is to secure peace in the community and bring a litigation to an end as it is also settled that a litigation cannot go ad-infinitum.

9. In the facts of the present case, keeping in view the aforesaid materials on the record and the judicial pronouncement on the subject, this Court would not allow the interlocutory application.

10.The interlocutory application seeking condonation of delay is dismissed. In result, the revision application would also fail.

**(Rajeev Ranjan Prasad, J)**

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