

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.185 of 2024

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

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SUJIT KUMAR YADAV @ SUJEET KUMAR YADAV @ SUJEET YADAV
SON OF RAMANAND YADAV RESIDENT OF VILLAGE - SULTANPUR,
P.S. - AANDAR, DISTRICT - SIWAN, BIHAR REGULARLY RESIDING
AT HOUSE NO.131, SECTOR 5, SAINIK ENCLAVE MOHAN GARDEN,
UTTAM NAGAR, P.S. - RANHOLA, WEST DELHI Petitioner/s
Versus

1. THE STATE OF BIHAR
 2. MEENU KUMARI DAUGHTER OF SURENDRA YADAV RESIDENT
OF VILLAGE - MATIHANI, P.S. - MIRGANJ, DISTRICT - GOPALGANJ,
BIHAR
- Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indrajeet Bhushan, Adv.
For the Respondent/s : Mr.Umesh Lal Verma, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

4 26-07-2024

Interlocutory Application No. 01/2024

This interlocutory application has been filed, under
Section 5 of the Limitation Act, on behalf of the petitioner
praying therein for condonation of delay in preferring the
present petition.

2. Having considered the reasons assigned in the
present application seeking condonation of delay and having
heard the learned counsel for the petitioner, the delay, in
preferring the present petition, is hereby condoned.

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3. Heard the parties.

4. The present revision petition has been preferred by
the petitioner/husband being aggrieved by the order dated
24.11.2021 passed in Maintenance Case No. 142/2019 by the



learned Principal Judge, Family Court, Gopalganj whereby the learned Family Court passed an *ex parte* order directing the petitioner to pay a monthly maintenance of Rs. 4000/- to the OP No. 2/his Wife and Rs. 1000/- each (Total Rs. 6000/-) for her two children who are residing with OP No. 2 i.e., mother.

5. At the time of argument, it is submitted that the petitioner is residing in Delhi for more than ten years and even at the time of filing of application under Section 125 CrPC, he was there in Delhi and the address of Delhi has also been mentioned by his wife/OP No.2 in her application filed under Section 125 CrPC. However, notices were issued by the Family Court for appearance of the petitioner on his local address i.e., Village, Sultanpur, PS. Aandar, District-Siwan and the paper publication was also done which are in circulation in the local area of Siwan. Therefore, the impugned order dated 24.11.2021 passed in Maintenance Case No. 142/2019 by the learned Principal Judge, Family Court, Gopalganj is liable to be set aside on this ground alone. It is prayed by the learned counsel for the petitioner that the instant matter may be remitted to the concerned Family Court for retrial of the maintenance case.

6. Since the final order, passed by the Family Court has been challenged by the petitioner, is an *ex parte* order, the



petitioner has already remedy available to file an application before the Family Court for recall or set aside the *ex parte* order dated 24.11.2021 passed in Maintenance Case No. 142/2019. Therefore, the petitioner is advised to file an application before the concerned Family Court for setting aside/recalling the impugned order dated 24.11.2021.

7. Learned counsel for the petitioner prays that this petition may be disposed of giving liberty to the petitioner to firstly file an application before the concerned Family Court for recalling/setting aside the said impugned order which has been passed *ex parte*. He further submits that while deciding such an application as well as application for condonation of delay in filing the application as referred herein above, the Family Court may also be directed to consider the aspect sympathetically that at the time of passing an *ex parte* order, the petitioner was residing in Delhi.

8. Considering the submissions advanced on behalf of the petitioner, the present petition stands disposed of with the liberty as mentioned herein above.

(Arvind Singh Chandel , J)

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