

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.258 of 2023

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

Om Prakash S/o Shyam Babu R/V- Dullighat, Chornia Gali Gurhatta, P. S-
Khajekala, District- Patna At Present Diwan Mohalla Chunni Gali, Patna City,
P.S- Khajekala, District- Patna

... ... Petitioner

Versus

1. The State of Bihar
2. Amrita Kumari W/o Om Prakash D/o Chandeshwar Prasad R/o village-
Diwan Mohalla Chunni Gali, P.S- Khajekala, Distt.- Patna. At Present
Mohalla Mtan Ghat Adarsh Colony, Patna City, Distt.- Patna.

... ... Respondents

Appearance :

For the Petitioner/s	:	Mr. Kunwar Ajit Singh, Advocate Mr. Akash Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 08-02-2024 **I.A. No. 1 of 2023**

This application has been filed for condonation of
delay of 29 days in filing of the revision application.

2. Learned counsel for the petitioner submits that the
petitioner had no knowledge of the maintenance case and the
order is an ex-parte order. In order to satisfy itself with the
bonafies of the petitioner, this Court has gone into the impugned
judgment. It is recorded in paragraph ‘3’ of the judgment that
“After admission of this case, notice/summons sent to the
opposite party through registered post as well as through
Nazarat but opposite party did not appear in this case. In spite of

steps, as aforesaid, taken by this court, opposite party did not appear, so, service of summons confirmed against the opposite party and the case was fixed for ex-parte hearing”.

3. The petitioner is posted as Inspector of Police and it is not denied that his monthly salary is Rs. 80,000/- per month. The pleadings available on the record nowhere aver that the petitioner is not earning a salary of Rs. 80,000/- per month. His submission is that he has taken a housing loan of Rs. Twenty Lakhs from Madhya Gramin Bank against which he is paying a monthly EMI of Rs. 25,000/-.

4. From the judicial pronouncements of the Hon'ble Supreme Court in the case of **Dr. Kulbhushan Kunwar Vs. Smt. Raj Kumari and Anr.** reported in **AIR 1971 SC 234** it is crystal clear that the EMI paid on account of house loan shall not be liable to be deducted for purpose of calculation of the maintenance amount to the wife and the child. The learned Family Court has allowed a sum of Rs. 30,000/- only as maintenance to the wife and two children.

5. In the totality of the facts and circumstances of the case, this Court is of the considered opinion that the petitioner is unable to demonstrate his bonafides in filing of the present revision application belatedly. On query made by this Court as

to whether any amount is being paid to the wife and children, learned counsel for the petitioner does not say anything about payment.

6. This Court is therefore taking note of the conduct of the petitioner and finding it not in consonance with the pleas taken by him for condonation of delay, dismisses the application for condonation of dealy in filing of the revision application.

7. I.A. No. 1 of 2023 stands dismissed accordingly the revision application is also dismissed.

(Rajeev Ranjan Prasad, J)

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