

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.547 of 2021

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

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YOGENDRA MANI @ YOGENDRA MALLIK S/o Baleshwar Mallik R/o
village- Singheshwar, P.S.- Singheshwar, District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shanti Devi W/o Yogendra Mallick R/o village- Sadar Hospital Saharsa
Compound, Ward No. 9, P.O.- Saharsa, P.S.- Saharsa, District- Saharsa
3. Kajal Kumari D/o Yogendra Mallick R/o village- Sadar Hospital Saharsa
Compound, Ward No. 9, P.O.- Saharsa, P.S.- Saharsa, District- Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Mohammad Sufyan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 10-01-2024 Heard learned advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is the husband of opposite party no.2
and father of the opposite party no.3

3. The wife of the petitioner filed an application under
Section 125 of the Cr.P.C. praying for maintenance for herself
and the minor daughter of the parties before the learned
Principal Judge, Family Court, Saharsa which was registered as
Misc. (Maintenance) Case No.111/2011. It is found from the
impugned order dated 22.04.2016 that the opposite party
appeared in the said Miscellaneous case but did not filed any



show cause or written objection. Subsequently, the learned Principal Judge, Family Court, Saharsa disposed of the above mentioned Miscellaneous case vide order dated 22.04.2016 directing the present petitioner/husband to pay Rs.5,000/- per month to his wife and Rs.3,000/- per month to their minor child, total being Rs.8,000/- per month. The said order was passed ex-parte on 22.04.2016 and the petitioner has filed the instant Criminal Revision after a lapse of more than five years in the year 2021.

4. Under such backdrop the petitioner's application under Section 5 of the Limitation Act for condonation of delay is taken up for hearing.

5. I have heard the learned advocate for the petitioner, on careful perusal of the application under Section 5 of the Limitation Act it is found that the petitioner stated in paragraph no.4 on affidavit that due to negligence/fault on the part of the advocate for the petitioner the impugned judgment and order dated 22.04.2016 was passed ex-parte and he had no knowledge about such ex-parte order till June 2021 when he received a notice of Misc. Execution Case No.69 of 2016.

6. From the impugned order itself it is clear that the petitioner/husband received the notice and appeared before the



Trial Court to contest the case. Therefore, the impugned order was not passed without service of summons/notice. Secondly, there is absolutely no averments that he was prevented by sufficient cause from attending the courts proceeding for a long period of five years and only dependent upon his learned advocate. The facts stated in para-4 has not been proved by the petitioner.

7. For the reasons stated above, I do not find any reason to condone the delay, the application under Section 5 of the Limitation Act is accordingly rejected.

8. In view of the rejection of the application under Section 5 of the Limitation Act, the present criminal revision application is also dismissed.

(Bibek Chaudhuri, J)

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