

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.731 of 2021

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

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JASIM @ MOHD. JASIM Son of Mohd. Gayasuddin Resident of Village -
Dighali, P.S.- Palasi, District - Araria.

... .. Petitioner/s

Versus

1. Bibi Farhana Beghum Wife of Jasim @ Mohd. Jasim Resident of Village -
Dighali, P.S.- Palasi, District - Araria.
2. Mohabbat Alam Son of Jasim @ Mohd. Jasim Resident of Village - Dighali,
P.S.- Palasi, District - Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purnendu Keshav, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 19-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The instant revision is barred by limitation by three years. It is contended on behalf of the petitioner that due to COVID Pandemic he was not able to file the instant revision challenging the order dated 17.03.2021. The Pandemic was officially declared to be ended in the month of March, 2023.

3. The impugned order was passed on 17.03.2021 and the revision application was filed on 09.12.2021, therefore, during COVID Pandemic the revision application was filed.

4. The Hon'ble Supreme Court in suo-moto case being *Misc. Application Nos. 21 with 29 of 2022 and 665 of*



2021 in Suo Moto Writ Petition (C) No.3 of 2020 reported in **(2022) 441 ITR 722** has clearly directed that the period of COVID Pandemic shall be deducted from the period of limitation.

5. In view of such circumstances, this Court finds that there is no limitation in filing the revision application. Accordingly, the application under Section 5 of the Limitation Act is disposed of holding inter-alia that there is no limitation in filing the instant revision.

6. The revision application is taken up for hearing.

7. The instant revision is directed against an order dated 17.03.2021 passed in Maintenance Case No.321 of 2018 by the learned Principal Judge, Family Court, Araria in a proceeding under Section 125 of the Cr.P.C. being Maintenance Case No.321 of 2018 whereby and whereunder the petitioner was directed to pay monthly maintenance at the rate of Rs.3,000/- per month to the opposite party no.2 and Rs.1,000/- per month to the minor son of the parties, total being Rs.4,000/- per month.

8. It is submitted by the learned advocate for the petitioner that the petitioner is a casual worker, he works as a daily wage labourer when he gets some job. He does not get



work of a casual labourer regularly. Therefore, he does not have any financial capability to pay Rs.4,000/- per month towards maintenance.

9. Having heard the learned advocate for the petitioner and considering the law relating to the subject it is not in dispute that even a person who does not have any income is under obligation to maintain his wife. In such case, it is decided by the Hon'ble Supreme Court in the case of *Anju Garg & Anr. Vs. Deepak Kumar Garg* reported in *SCC Online (2022) SC 1314* that the income of the husband shall be determined on the basis of Minimum Wages Act. The same view was taken by the Allahabad High Court in an unreported decision dated 25.01.2024 in *Kamal Vs. State of U.P. (Cr. Revision No. 461 of 2023)*.

10. Considering such circumstance, the monthly income of the petitioner shall be held to be Rs.12,000/- per month.

11. The opposite party no.1 is entitled to get 1/3rd of the monthly income of the petitioner towards her maintenance. Therefore, the opposite party no.1 is entitled to get maintenance at the rate of Rs.4,000/- per month. Thus, the Trial Court did not commit any error in directing the petitioner to pay maintenance



at the rate of Rs.4,000/- per month in the above mentioned proceeding.

12. In view of the above finding, I do not find any ground for interference and the instant revision is dismissed on contest.

(Bibek Chaudhuri, J)

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