

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.738 of 2023

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

Sumit Kumar Singh @ Sumit, Son of Siya Sharan Singh, R/o vill - Makrand,
P.S. - Jhajha, Distt. - Jamui, Presently at House no. 16A IInd Floor, Gali No.
14, Angad Nagar Khureji, Delhi

... .. Petitioner/s

Versus

Megha W/O Sumit Kumar Singh @ Sumit, D/O Mohan Kumar Residing at
East Lohanipur, Kashi Nath Lane, P.S. - Kadamkuan, Distt. - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amar Prakash, Advocate

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 16-01-2024 Heard learned counsel for the petitioner in limitation
as well as in admission matter.

2. I.A. No. 1 of 2023 has been filed seeking
condonation of delay of 126 days in filing of the revision
application.

3. The present revision application has been preferred
for setting aside the order dated 16.03.2023 passed by learned
Principal Judge, Family Court, Patna in Maintenance Case
No.51(M) of 2022 whereby and whereunder the learned Family
Court has allowed an application under Section 125 Cr.P.C. filed
by the opposite party no.2/wife and has directed the
petitioner/husband to pay maintenance amount of Rs.15,000/-
per month to his wife from the date of filing of the maintenance
case i.e. from the month of February, 2022. The petitioner has

been directed to pay Rs.25,000/- lump sum as litigation cost in favour of his wife.

4. Learned counsel for the petitioner submits that the petitioner has challenged the impugned order on the quantum of the maintenance amount as, according to him, the maintenance amount is excessive and without assessing the income and expenses of the petitioner.

5. For purpose of condonation of delay, it is submitted that the impugned order of maintenance is ex-parte in nature and the petitioner has got no opportunity of hearing, hence, the same is not sustainable in the eyes of law.

6. This Court has perused the impugned order. The learned Principal Judge, Family Court has recorded in paragraph '3' of the impugned order as under:-

“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 this case is fixed for exparte hearing vide order dated 21.10.2022 of this court.”

7. In the petition seeking condonation of delay, there is no averment at all that what are stated in paragraph '3' of the impugned order regarding service of notice are not correct. The

petitioner has filed a supplementary affidavit at this stage in which it is stated that the impugned judgment of maintenance is ex-parte in nature and no notice was served to the petitioner.

8. In order to consider the submission of learned counsel for the petitioner for purpose of condonation of delay as also admission, this Court has gone into the impugned order and other materials placed on the record. The petitioner is a government servant who is working as an Assistant at New Delhi Division XVIII. It is his own statement which is supported by his own document Annexure- '2' to the application which would show that his gross income from salary is Rs.53899.08 against which the statutory deductions are about Rs.12,000/- only, therefore, the petitioner is having at least Rs.40,000/- as salary which would be required to be considered for purpose of fixing the quantum of maintenance. In this case, the petitioner has been asked to pay Rs.15,000/- per month to his wife. The petitioner and opposite party no.2 have no child out of their wedlock. Under these circumstances also, this Court is of the opinion that no unreasonableness or arbitrariness may be found in the quantum of maintenance.

9. So far as his statement at this stage that no notice was served on him, in the opinion of this Court, is only a half-

hearted statement as he has not controverted the specific endorsement in the impugned order that the petitioner had been served with notices by Nazarat as well as by registered post. It is not his case that the notices were not sent on his address.

10. In the totality of the circumstances, this Court is of the considered opinion that the petitioner does not deserve condonation of delay. The limitation petition is dismissed.

11. As a result of dismissal of limitation petition, the present revision application would also fail.

12. Learned counsel for the petitioner submits at this stage that the petitioner is looking for a mediation/settlement outside the court. He is presently paying Rs.15,000/- per month which he would continue to pay till the mediation/settlement takes place.

13. In that view of the matter, this Court would direct the learned Principal Judge, Family Court, Patna to send the records to the mediation centre attached to the court where both the parties shall participate in the mediation process and cooperate in getting a settlement.

(Rajeev Ranjan Prasad, J)

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