

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.921 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

1. Safina Khatoon and Anr Wife of Md. Rafi Ahmad.
2. Shama minor Daughter of Md. Rafi Ahmad under the guardianship of her mother namely Safina Khatoon Both are resident of Village Banauli P.S.- Simri, District- Darbhanga, Presently Resided at Village Gopalpur Gopal, P.O.- Sharfuddinpur, P.S.- Bochahan, District- Muzaffarpur.

... .. Petitioner/s

Versus

Md. Rafi Ahmad Son of Late Md. Shaib resident of Village Banauli, P.S.- Simri, District- Darbhanga, Presently posted at Minority Department, Haj Bhawan, Ali, Imam Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Md. Syed Kaisar Hasan, Advocate
For the Respondent/s : Mr. Anisur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 22-01-2024 It is found from the record that an application under Section 5 of the Limitation Act is pending for condonation of delay by 23 days in filing the instant Revision. The said application was not allowed but I find that orders were passed by the coordinate Benches directing the petitioner to take steps for issuance of notice upon the private opposite party.

2. It may be a fact that pendency of the application under the Limitation Act had lost site of the coordinate Bench.

3. Under such circumstances, I am not in a position to take up the hearing on the instant Revision.



4. However, the application under Section 5 of the Limitation Act is taken up for hearing. I have heard the learned Advocate for the petitioner, learned Advocate for the opposite party and learned APP. Since there is delay of only 23 days in filing the instant Revision and on perusal of the petition, I find that the petitioner was prevented by sufficient cause in filing the application under Section 397(1) read with Section 401 of the Code of Criminal Procedure, delay is condoned.

5. Since the private opposite party is present, this court takes up hearing of the instant Revision on consent of the parties.

6. This is an application praying for Revision of an order dated 22nd March, 2018 passed by the learned Principal Judge, Family court, Muzaffarpur in a proceeding under Section 125 of the Cr.P.C. filed by the petitioner against her husband, the opposite party herein.

7. The petitioner has prayed for enhancement of quantum of maintenance against the opposite party/husband.

8. It appears from the order dated 22nd March, 2018 that the trial court granted maintenance allowance at the rate of Rs. 4,000/- in favour of the petitioner and Rs. 2,000/- in favour of the minor child of the parties per month, total being Rs.



6,000/- per month.

9. It is pleaded by the petitioner in the instant Revision that the amount of maintenance is very meager while considering the monthly income of the opposite party.

10. It is needless to say that the Statute has clearly provided in Section 127 of the Cr.P.C. for enhancement of maintenance allowance on changed circumstance. The maintenance order was passed in the year 2018. Today in 2024, the monetary need of the petitioner for herself and their children have surely been enhanced. Moreover, it is submitted by the learned Advocate for the petitioner that sometimes in July, 2022 one of the minor children of the parties were handed over and returned to the petitioner, for whom, maintenance was not paid. In view of such changed circumstances, the petitioner is at liberty to file an application under Section 127 of the Cr.P.C. within one month from the date of this order in the trial court. Since the private opposite party has appeared in the case, the opposite party is also directed to appear before the trial court within one month from the date of this order. The application under Section 127 of the Cr.P.C. for enhancement of maintenance shall be disposed of on the basis of evidence, laid by the parties within 6 months from the date of this order



positively.

11. With the above order, the instant Revision is
disposed of.

(Bibek Chaudhuri, J)

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