

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.333 of 2023**

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

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MEERA DEVI@ MIRA DEVI Upendra Yadav Resident of village Kamla Kund P.S. Ismailpur (Gopalpur) District Bhagalpur

... .. Petitioner/s

Versus

1. Upendra Yadav @ Upendra Prasad Yadav s/o Late Chetno Prasad Yadav Resident of village- Kamlakund P.S. Ismailpur (Gopalpur) District Bhagalpur
2. Jai Mala Devi Upendra Yadav @ Upendra Prasad Yadav Resident of village- Kamlakund P.S. Ismailpur (Gopalpur) District Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr.Praveen Kumar

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT**

Date : 23-07-2025

The petitioner has filed the instant application under Section 19(4) of the Family Courts Act, against the opposite parties *alleging, inter alia*, that the O.P. No. 1 is his legally married husband. As the O.P. No. 1 refused and neglected to maintain the petitioner, she filed an application under Section 125 of the CrPC which was disposed of on 23rd August 2006 in favour of the petitioner directing the O.P. No. 1 to pay maintenance allowance at the rate of Rs. 750/- per month. The opposite party did not make any payment to the petitioner. Way back in 2016, the petitioner filed Misc. Execution Case No. 15 of 2016, praying for execution of maintenance amount to the



tune of Rs. 92,400/- with effect from 23rd August 2006. On 21st July 2017, the learned Principal Judge, Family Court, Bhagalpur passed an order in Misc. Execution Case No. 15 of 2016 (arising out of Misc. 31/2014) stating, *inter alia* that the petitioner is being maintained by his son who is an able bodied young man, capable to work and earn and therefore, no order is required to be passed on the application which was registered as Misc. Execution Case No. 15 of 2016. Against the said order passed on 21st July 2017, the petitioner has filed the instant revision in the year 2023.

2. I have heard the learned Advocates for the petitioner and the opposite parties. The instant revision is hopelessly barred by limitation on the ground that the impugned order dated 21st July 2017 is being challenged by the petitioner after a lapse of about 8 years. Secondly, *proviso* to sub-Section 3 of Section 125 of the CrPC states as under:

“(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence



such person, for the whole or any part of each month's 2 [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so



doing.”

3. Thus, according to the *proviso* 1 to sub-Section 3 of Section 125 of the CrPC, the amount of maintenance due for the period of one year may be claimed in execution from the date of which it became due, therefore, the petition cannot claim execution of maintenance allowance from 2016 till date by way of filing an application for execution of the order which was passed in 2006.

4. For the reasons stated above, I do not find any merit in the instant revision and the same is accordingly dismissed. However, there shall be no order as to cost.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	NA
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