

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.502 of 2021**

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

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Ranjeet Kumar @ Ranjeet Modi, Son of Chandrika Modi, Resident of
Village- Mirjaganj, P.S.- Sikandra, District- Jamui.

... .. Petitioner

Versus

1. The State of Bihar
2. Baby Devi, Daughter of Late Bhaso Das and Wife of Ranjeet Modi,
Presently residing at Village- Rampur, P.S.- Suryagadha, District-
Lakhisarai.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr. Barjesh Prasad Gupta, Advocate
For the State	:	Mr. Chandra Sen Prasad Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT**

Date : 15-04-2025

The present Revision Petition has been filed along
with I.A. No. 1 of 2022 for condonation of delay of two months
and fifteen days in filing the present Criminal Revision Petition.

2. The relevant facts of the case is that Baby Devi,
wife of Ranjeet Kumar @ Ranjeet Modi, who is the petitioner
herein filed one petition under Section 125 Cr.PC bearing
Maintenance Case No. 59M of 2018 in the Court of learned
Principal Judge, Family Court, Jamui for her maintenance as
well the maintenance of her two children living with her. The
maintenance petition was filed against her husband Ranjeet
Modi, and both the parents-in-law stating that the marriage
between Baby Devi and Ranjeet Modi on 07.04.2001 as per



Hindu rites and customs and subsequently, she joined the matrimonial home of her husband and three children, namely, Ranjan Kumar, 13 years of age, Rajani Kumari, 11 years of age and Rajnish Kumar, 7 years of age are born out of the wedlock.

3. However, subsequently, Ranjeet Modi, husband of Baby Devi, developed illicit relationship with one lady, Babita Kumari and when her wife protested against such relationship, she was subjected to beating by her husband and ultimately, he forcibly got her signature on a plain paper and ousted her from his matrimonial home along with her two minor children.

4. It was further stated that she has no source of income to maintain herself and the children, whereas her husband earns Rs.35,000/- per month from business and presently she is living with her sister and brother-in-law because her parents have died.

5. On notice, Ranjeet Modi, husband of Baby Devi appeared in the Family Court and filed his show-cause contesting the maintenance petition filed by his wife submitting that his wife has developed illicit relationship with one Dharmendra Choudhary @ Bhushan Choudhary and despite his protest, she did not stop her illicit relationship with him and she



wanted to live with him and ultimately, she broke up her matrimonial relationship with him and decided to live with Dharmendra Choudhary @ Bhushan Choudhary. She also took an amount of Rs. 1,00,000/- towards maintenance for herself and two minor children from her husband and left the matrimonial home leaving one child with her husband.

6. As per further pleading of the husband, the wife has also executed one affidavit regarding the breaking up of her marriage with her husband, Ranjeet Modi and hence, he has no matrimonial relationship with his wife since 16.11.2017. He has further stated that he earns Rs. 3,000/- per month only from a shop and he has also to maintain his old parents. He has denied that he has ousted his wife and two children from his matrimonial home.

7. After trial learned Family Court directed Ranjeet Modi to pay Rs. 5,000/- per month to his wife and two children towards their maintenance.

8. I heard learned counsel for the petitioner on the point of admission.

9. Learned counsel for the petitioner submits that as a matter of fact, his wife, Baby Devi has illicit relationship with one Dharmendra Choudhary @ Bhushan Choudhary and she



wanted to live with him and hence, she broke her matrimonial relationship with the petitioner taking permanent alimony of Rs.1,00,000/- for her maintenance as well as maintenance of her two minor children leaving one child with the petitioner.

10. Moreover, he has income of Rs. 3,000/- per month only. Hence, the impugned order is not sustainable in the eye of law. He further submits that on account of unavoidable reasons, the present Revision Petition has been filed after a delay of two months and fifteen days, which may be condoned.

11. I considered the submission advanced by learned counsel for the petitioner and perused the material on record.

12. I find that admittedly, Baby Devi is the legally wedded wife of the Ranjeet Modi and even paternity of two minor children living with Baby Devi and born out of the wedlock between Baby Devi and Ranjeet Modi is not disputed. The only plea on behalf of the husband, Ranjeet Modi is that the marriage between him and his wife has been already dissolved by mutual consent and she has already taken Rs.1,00,000/- towards permanent alimony and executed one affidavit to this effect. There is no claim that Baby Devi has any source of income to maintain herself and her two minor children living



with her. The only allegation is that she is living with Dharmendra Choudhary @ Bhushan Choudhary.

13. Here, it would be relevant to point out that both the parties belong to Hindu Community and their marriage is governed under the Hindu Marriage Act, 1956, as per which, marriage can be dissolved between the parties only by a decree passed by the Family Court under Section 13 of the Hindu Marriage Act, 1956. Hence, even if it is admitted that Baby Devi and Ranjeet Modi have broken their matrimonial relationship with mutual consent and by executing an affidavit, their marriage does not get dissolved. Hence, Baby Devi is still the legally wedded wife of Ranjeet Modi and the two children who are living with her are admittedly born out of the wedlock between Ranjeet Modi and Baby Devi.

14. I also find that here is no evidence adduced in support of adulterous life of Baby Devi which could show that she is having adulterous relationship with Dharmendra Choudhary @ Bhushan Choudhary. Only allegation is not sufficient to prove that Baby Devi is living an adulterous life. Hence, Baby Devi and the two minor children living with her are entitled to get maintenance.

15. Even regarding quantum of maintenance



awarded in favour of Baby Devi and two of her minor children, I find that only a meager amount of Rs. 5,000/- per month was directed to be paid by Ranjeet Modi to his wife and two minor children for their maintenance. However, seeing the income of Ranjeet Modi, which is just Rs.3,000/- per month, the quantum of maintenance may not be questioned, nor the wife or children have challenged it before this Court. Here, the husband of Baby Devi has come against the maintenance order passed in favour of Baby Devi and her children.

16. Hence, in totality of the facts and circumstances, I do not find any illegality or infirmity in the impugned order and it is liable to be dismissed *in limine* for want of any merit. Even otherwise, the petition has been filed after a delay of two months and fifteen days without any cogent reason.

17. As such, for want of any merit and the delay, the I.A. No. 1 of 2022 along with the Revision Petition is also liable to be dismissed.

18. Accordingly, the present is dismissed, *in limine* for want of any merit and delay in filing the Revision Petition.

19. However, I find that as per the claim of the petitioner, he has paid Rs.1,00,000/- to her wife at the time of



breaking up of marriage by mutual consent. However, no evidence in support of such claim was brought on record by the husband in the Court below. Hence, the husband is at liberty to file petition for modification of the impugned order to the extent that the amount of Rs. 1,00,000/- paid towards alimony in view of the mutual understanding should be adjusted against the payment of the maintenance as awarded by the Family Court. If such petition is filed by the petitioner before the Family Court, the Family Court may decide the same after giving opportunity to both the parties to lead their evidence and make their submissions.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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