

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.726 of 2022**

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

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Md. Mumtazuddin @ Md Momtazuddin, Son of Late Md. Aziz @ Bhaglu Khan @ Late Aziz, R/V- Kandi, Police Station Chandauti, District- Gaya

... .. Petitioner/s

Versus

Akbari Khatoon, Daughter of Late Abdul Wahab, Resident of Mohalla-Sadisopur, P.S- Bihta, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amir Alam, Advocate

For the Respondent/s : Mr.Birendra Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 16-12-2025

I.A.No.01 of 2022

Heard learned counsels for the respective parties.

2. The instant interlocutory application has been filed for condoning the delay of 2 years, 8 months and 28 days in preferring this revision application.

3. For the reasons mentioned in this interlocutory application, I am satisfied that the petitioner was prevented from sufficient cause in preferring this revision application within time.

4. Accordingly, this interlocutory application is allowed and the delay in filing this application is hereby condoned.

Cr. Revision No. 726 of 2022



5. The petitioner has challenged the order dated 04.09.2019 passed by the learned Additional Principal Judge, Family Court, Patna in Criminal Misc. Case No. 11 of 2017 arising out of Maintenance Case No. 41 (M) of 2005.

6. The learned counsel for the petitioner submits that the petitioner has been paying the maintenance amount of Rs.2500/-per month to the opposite party after the orders were passed on 28.02.2012 to make payment of Rs.2500/- to the opposite party. Thereafter, Criminal Misc. Case No. 11 of 2017 was filed and without service of notice upon the petitioner, that criminal miscellaneous case was allowed and maintenance amount was enhanced from Rs.2500/-per month to Rs.5,000/- per month. Apart from the enhanced maintenance amount, the petitioner was also directed to make payment of Rs.5,000/- as litigation cost. The learned counsel further submits that this order was passed behind the back of the petitioner and is not sustainable. The petitioner was earlier in service as Class IV employee and he retired from his service in the year 2023. As on date, he is not in a position to make payment of Rs.5,000/-per month to the opposite party. Thus, learned counsel prays for setting aside the impugned order.

7. The learned counsel appearing on behalf of



opposite party submits that the petitioner has been making payment of maintenance amount till May, 2024. The petitioner was having every knowledge of the proceeding before the learned Family Court, still he chose not to appear.

8. Perused the record.

9. From perusal of impugned order, it appears that notices were issued to the petitioner through *Nazarat* and registered post, but the petitioner did not appear before the learned trial court and, thereafter, substituted service by way of publication in newspaper was done. Still the petitioner did not appear and the matter proceeded *ex-parte* against him.

10. Since the order has been passed *ex-parte*, without further going into the merits of the case of either side, the impugned order dated 04.09.2019, passed in Cr. Misc. Case No. 11/2017, arising out of Maintenance Case No. 41 (M) of 2005, is set aside.

11. The matter is remitted back to the learned Family Court for decision afresh in accordance with law and on its own merits within a period of six months from the date of receipt/production of a copy of this judgment, after giving ample opportunity of adducing evidence and hearing to the respective parties.



12. However, it is made clear that the petitioner will continue to make payment of Rs.5,000/-per month to the opposite party till any order on merits is passed by the learned Family Court.

13. With the aforesaid observations and directions, the present petition stands allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2025
Transmission Date	16.12.2025

