

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.782 of 2024

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

Nitin Kumar, Son of Late Nageshwar Prasad, Village- Randaha, P.S.- Raja Pakad, District- Vaishali

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Seema, D/O Jaleshwar Prasad, R/O Vill.- Rahimpur, P.S.- Bidupur, Dist.- Vaishali.

... .. Respondent/s

with

CRIMINAL REVISION No. 737 of 2024

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

Nitin Kumar, S/O Nageshwar Prasad Singh @ Sri Nageshwar Pd. Singh, R/O Village- Randaha, Police Station- Rajapaakad, District- Vaishali, Bihar

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Seema, D/O Jaleshwar Prasad Singh, R/O Village- Rahimapur, P.S.- Biddupur, Distt.- Vaishali (Bihar)

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 782 of 2024)

For the Petitioner/s : Mr.Harish Kumar, Advocate

For the Respondent/s : Mr.Sanjay Kumar Singh, APP

(In CRIMINAL REVISION No. 737 of 2024)

For the Petitioner/s : Mr.Harish Kumar, Advocate

For the Respondent/s : Mr.Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 13-02-2025 I. A. No. 1 of 2023 is an application under Section 5 of the Limitation Act filed by the petitioner for condonation of delay in filing the Criminal Revision No. 737 of 2024, after a lapse of about 7 years 9 months and 10 days.



2. It is contended by the petitioner that the opposite party filed a maintenance case under Section 125 of the Cr.P.C. before the learned Principal Judge, Family Court, Hajipur at Vaishali which was registered as Maintenance Case No. 31 of 2025. In the said maintenance case, the present petitioner/husband did not receive any notice and without service of notice, the said maintenance case was fixed for ex parte hearing. Subsequently, the maintenance case was disposed of ex parte vide order dated 17th of November, 2016. In the maintenance proceeding, the opposite party/wife purposefully gave a wrong address of the present petitioner/husband. Though it was within her knowledge that the petitioner had been residing in Lucknow in the State of Uttar Pradesh. The petitioner of the maintenance case stated the address of her husband within the jurisdiction of the district of Vaishali. Therefore, notices sent in the residential as well as the business address of the petitioner were returned unserved. Subsequently on the prayer of the present opposite party, notices were attempted to be served through paper publication in a Hindi Daily circulated within Vaishali area. Thus, he had no knowledge about pendency of the maintenance case only when the order of attachment of property of the petitioner was passed



and it came to be attached, he came to know about the existence of such case. Then he obtained certified copy of the order and file criminal revision challenging the order of the learned Principal Judge, Family Court, Hajipur at Vaishali under Section 19 (4) of the Family Court's Act. Therefore, the petitioner had no intentional laches and delay in filing the instant revision and therefore the delay may be condoned.

3. The learned Advocate on behalf of the opposite party/wife refers to an order, dated 6th of July, 2015, passed by the Trial Court. The said order states that notice of the maintenance proceeding was served through paper publication.

4. It is strongly urged by the learned Advocate for the petitioner that the petitioner had no opportunity to have the knowledge about the maintenance case because he used to reside in Lucknow.

5. The learned Advocate on behalf of the opposite party, on the other hand, submits that petitioner runs a school under the name and style of Oasis International School at Vaishali.

6. It is submitted by the learned counsel for the petitioner that he has no information about existence of any such school run by the petitioner. Though the petitioner contends that



he resides in Lucknow, in his application under Section 5 of the Limitation Act, the petitioner himself states his address as the S/O Nageshwar Prasad Singh @ Sri Nageshwar Pd. Singh R/O Village- Randaha, Police Station- Rajapaakad, District- Vaishali.

7. Had the petitioner been staying in Lucknow, he could have stated his Lucknow address in the application under Section 5 of the Limitation Act.

8. The statement of the petitioner runs in the application under Section 5 of the Limitation Act with regard to his address reminds this Court likes to quote an old proverb that a wrong doer always leaves behind a mark of his wrong through which his role can be ascertained.

9. It is not in dispute that there are other criminal proceedings pending against the petitioner in Vaishali and he had taken steps one after another before the Court to stop those criminal proceedings. Thus, he had knowledge about pendency of the criminal proceeding against him in the Court of Hajipur at Vaishali and it is hard to believe that he did not have any knowledge about the maintenance case.

10. In view of such circumstances, this inordinate delay of 7 years 9 months and 10 days cannot be condoned and accordingly the application under Section 5 of the Limitation



Act is rejected on contest.

11. Consequent upon the rejection of the application under Section 5 of the Limitation Act, the criminal revision is also dismissed.

12. With the dismissal of Criminal Revision No. 737 of 2024, the Criminal Revision No. 782 of 2024, which has been filed against the execution of the maintenance order be also dismissed.

13. The parties are at liberty to take steps in the Trial Court.

(Bibek Chaudhuri, J)

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