

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.895 of 2024

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

Prashant Kumar Chaudhary Son of Madan Lal Chaudhary Resident of Colony
No. 2, Near the Church, K.B. Jha College Road, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shivika Bhagat Wife of Prashant Kumar Chaudhary Presently residing at
Churipatti Hat, Near kali Mandir, Post and Police Station and District-
Kishanganj

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 21-04-2025 This is an application under Section 5 of the

Limitation Act for condonation of delay by 309 days in filing

the instant criminal revision.

2. It is submitted by the learned Advocate for the
petitioner that Maintenance Case No.138 of 2018 was disposed
of on 31.08.2023 by the learned Principal Judge, Family Court,
Kishanganj, but the petitioner had no knowledge about the final
disposal of the maintenance case.

3. The learned Advocate for the petitioner submits
that after hearing argument, final order in Maintenance Case
under section 125 of the Cr.P.C. was reserved on 29.08.2023.
After 29.08.2023 he filed an application for obtaining certified



copy of the same, but it was not accepted by the concerned copying department of the Trial Court. Therefore, he had no knowledge when the order in Maintenance Case No.138 of 2018 was passed by the learned Principal Judge. Subsequently, he came to know that the date of delivery of order is 31.08.2023 but the said date was put after delivery of judgment by the Court on a subsequent date.

4. It is also contended by the learned Advocate on behalf of the petitioner that the petitioner is a practicing advocate in Katihar Civil Court. The case was disposed of in Kishanganj, so he had no knowledge about the maintenance case.

5. The learned Advocate on behalf of the opposite party No.2, on the other hand, submits that the ground mentioned by the learned Advocate on behalf of the petitioner in his submission has not been pleaded in the application under Section 5 of the Limitation Act. A long standing matrimonial dispute is pending between the parties. The petitioner has initially filed a suit for restitution of conjugal rights. When the matter was sent for conciliation, the opposite party No.2 did not agree to stay with the petitioner. Therefore, the application under Section 9 of the Hindu Marriage Act was withdrawn.



6. Subsequently, petitioner filed a suit for divorce against the opposite party No.2. In the said suit the opposite party No.2 was directed to pay alimony pendente lite at the rate of Rs.4,000/- per month. Against the said order, the petitioner approached this Court in Misc. Case No.06 of 2022, the said Misc. Case was disposed of directing the petitioner to pay alimony pendente lite within a particular date alongwith the arrear amount. The petitioner did not comply with the order of this Court. He did not pay any alimony. Subsequently, only to drag the maintenance case to avoid payment of maintenance allowance, the instant application has been filed after considerable delay of 309 days, so he has raised serious objection against the prayer for condonation of delay.

7. Having heard the learned Advocates on behalf of the parties and on careful perusal of the materials on record, I find that the petitioner is not a man having no knowledge about the legal proceedings. He is an advocate, he must know the law of limitation. The grounds submitted by the learned Advocate for the petitioner has not been stated in the instant application. The past conduct of the petitioner is not at all satisfactory. He has not paid any alimony or maintenance allowance to the opposite party No.2 till date.



8. Considering such aspect of the matter, this Court is of the view that the instant revision has been filed after a lapse of 309 days, so that maintenance amount may not be paid to the opposite party No.2 during the said period.

9. For the reasons stated above, I do not find any reason to allow the application under Section 5 of the Limitation Act. The application under Section 5 of the Limitation Act is rejected.

10. In view of the rejection of the application under Section 5 of the Limitation Act, the instant revision is held to be barred by limitation and the same is dismissed.

(Bibek Chaudhuri, J)

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