

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1048 of 2024

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

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MUNNA PRASAD SINGH, S/O RAJ KISHORE SINGH, R/o vill - Nanda Chak, P.O. - Jaitya, P.S. - Goarichak, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nitu Kumari D/o Sri Abhay Prakash Mandal, W/o Munna Prasad Singh R/o Mohalla - Ishaqchak (Pasti Tola), P.s.- Ishaqchak, P.O - Jagdishpur, Distt.- Bhagalpur, Bihar

... .. Respondent/s

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Appearance :

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

For the Respondent/s : Mr.Satyendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 10-04-2025 This is an application under Section 5 of the Limitation Act, filed by the petitioner, praying for condonation of delay in filing the instant Cr. Revision, challenging an order passed in Matrimonial Case No. 368 of 2014 on 25th of August, 2018, directing the petitioner to pay maintenance to the opposite party at the rate of Rs. 10,000/- per month.

2. The instant revision is filed by the petitioner after a lapse of about 6 years from the date of order granting maintenance allowance in favour of the opposite party.

3. The petitioner has prayed for condonation of delay.



4. It is submitted by the learned Advocate on behalf of the petitioner that the petitioner had no knowledge about the opposite party's getting Government service in the year 2017. Had he received such knowledge, he could have taken steps in the maintenance case itself, taking a specific defence to the effect that the opposite party had sufficient means to maintain herself. The fact that the opposite party got Government service way back in 2017 came to the knowledge of the petitioner only in 2024 when the opposite party filed a supplementary affidavit in connection with miscellaneous appeal instituted by her against the decree for dissolution of marriage by divorce. When the petitioner came to know about the said fact, he immediately challenged the said order.

5. The learned Advocate on behalf of the opposite party, on the other hand, has raised objection against the prayer for condonation of delay on the ground that delay of about 6 years should not be condoned. Moreover, the petitioner was directed in the miscellaneous appeal by a Co-ordinate Bench to pay maintenance allowance in favour of the opposite party twice. In spite of such a specific order, the petitioner has failed and neglected to pay the maintenance allowance.

6. Having heard the learned counsels for the parties,



this Court is of the view that the petitioner can raise the similar issue for modification of the maintenance allowance in view of opposite party's getting Government service under Section 146 of the BNSS (127 of the Cr.P.C., since repealed). The learned Principal Judge, Family Court, has the jurisdiction to consider the subsequent change of circumstances which may or may not disentitle the opposite party to get maintenance allowance.

7. Therefore, I am not inclined to condone the delay in the instant proceeding in view of the alternative efficacious remedy available to the petitioner.

8. Accordingly, the application under Section 5 of the Limitation Act is rejected and the revisional application is disposed of being barred by limitation.

9. However, the petitioner is given liberty to file an application under Section 127 of the Cr.P.C., raising all the issues raised in the instant criminal revision, if so advised. If such an application under Section 127 of the Cr.P.C. is filed by the petitioner with a copy to the opposite party, the learned Principal Judge, Family Court, is directed to dispose of the same within 3 months from the date of receipt/communication of this order.



10. Parties are at liberty to communicate a sever copy
of this order for taking step as early as possible.

(Bibek Chaudhuri, J)

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