

Party Name : MST. CHAIRA KHATUN Vs MD. ABDUL KHAYUM

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. K. Nath, learned counsel appearing for the petitioner as well as Mr. N. Das, learned counsel appearing for the respondent.

This is a petition filed under Section 19(4) of the Family Courts Act, 1984 primarily against the order dated 19.02.2015 delivered in Crl.Misc.No.(127)-02/2015 whereby it has been observed that, the dispute relating to the maintenance allowance has been settled on compromise.

It is not in dispute that the petitioner on 19.03.2015 filed an application to the Judge, Family Court, Kailashahar, Unakoti, Tripura, being Crl.Misc.No.(127)-02/2015, stating that she did not enter in any compromise with the respondent and did not make any submission in respect of the compromise in the proceeding. The said application dated 19.03.2015 has been rejected by the Judge, Family Court, Kailashahar, Unakoti, holding that the Family Court does not have the jurisdiction to interfere with the order dated 19.02.2015 in view of the provisions in Section 362 of the Cr.P.C.

On queried by this court, Mr. N. Das, learned counsel appearing for the respondent, has submitted that the respondent had remitted a sum of `1,200 to the petitioner in terms of the compromise, but she refused to accept that amount and as such the money order has returned to the respondent. On the basis of that, Mr. Das, learned counsel has submitted that there has been no refusal from the end of the respondent, in terms of the settlement as exposited in the proceeding before the Family Court.

Mr. K. Nath, learned counsel has submitted that without realising, the petitioner signed over the order sheet. Later on, by taking assistance of one counsel, namely Kirit Bikram Deb, she could realise that the said order dated 19.02.2015 reflected and recorded settlement between the petitioner and the respondent in respect of payment of maintenance allowance @ `1,200 per month. As she did not enter into such settlement, she immediately filed that petition dated 19.03.2015 before the Family Court.

This court, in the circumstances, would not inquire further, as it is not disputed that the petitioner was not assisted by any counsel to understand the procedural nitty-gritty.

In view of this, the order dated 19.02.2015 is interfered with and quashed. The matter is remitted back to the Family Court, Kailashahar, Unakoti, Tripura.

The Judge, Family Court is directed to provide a legal aid counsel to the petitioner. If it is revealed that the petitioner and the respondent struck a compromise in respect of payment of maintenance allowance, the terms of the same shall be made understandable to the petitioner and only thereafter the Judge, Family Court shall pass the appropriate order recording such compromise. If the purported compromise is not accepted by the petitioner, the case shall be determined on merit.

The parties shall appear in the Family Court, Kailashahar, Unakoti, Tripura on 01.08.2015. It is made clear that no further notice would be issued to the parties. It is the responsibility of the counsel appearing for the parties before this court to properly intimate the parties about their appearance on the day so appointed by this order.

With this observation and direction, this petition stands disposed of.