

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.917 of 2016

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Rajesh Kumar

.... Appellant/s

Versus

Punam Kumari

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anirudh Kumar Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 25-10-2016 Heard the learned counsel, Mr. Anirudh Kumar Verma, for the petitioner.

2) The learned counsel for the petitioner submitted that the petitioner is not aggrieved by the quantum of litigation cost awarded by the Court to be paid by the petitioner to the respondent herein but according to the learned counsel in Matrimonial case filed by the husband petitioner under Section 13 of the Hindu Marriage Act for Divorce Section 125 Cr.PC is not applicable but the learned Court below has passed the order under Section 125 Cr.P.C. In Divorce case, the Court has not jurisdiction to pass order under Section 125 Cr.P.C.

3) Perused the order. In the ordersheet dated 30.06.2016 which is impugned, it appears that the Court below has mentioned Matrimonial Case No.56 of 2016 and below the same, the provision has been mentioned as under Section 125 Cr.P.C.

4) As stated above by the learned counsel for the petitioner, he is not aggrieved by the quantum. He is aggrieved by the provision under Section 125 Cr.P.C. under which the order has been passed. There is no dispute that under Section 24 of the Hindu Marriage Act, the Court has the jurisdiction, therefore, merely because in the ordersheet, 125 Cr.P.C. has been mentioned, the order which has been passed by the Principal Judge, Aurangabad which is within his jurisdiction under Section 24 of the Hindu Marriage Act cannot be set aside on the ground prayed for by the petitioner. At best it can be said that it is a mistake or it can be treated that the order passed by the Principal Judge, Family Court, Aurangabad has been passed under Section 24 of the Hindu Marriage Act. Mere wrong labeling of provision of law will not be decisive for deciding jurisdiction of Court.

5) Merely because wrong provision has been mentioned the petitioner is trying to take advantage of the same. The intention is to delay the matter. I, therefore, treat the order to have been passed under Section 24 Hindu Marriage Act.

6) Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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