

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.457 of 2017**

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Lalit Narayan Rai, son of Late Gobardhan Rai, resident of village Haripur Pusa, Police Station Pusa, District Samastipur (working under Pusa block in Plant Protection Department)

.... .... Petitioner

Versus

1. Ganika Devi, wife of Lalit Narayan Rai, resident of village Haripur Pusa, Post Office and Police Station Pusa, District Samastipur
2. Nigam Kumari, wife of Krishna Murari, resident of village Machhi, Post Office and Police Station Sakara, District Muzaffarpur
3. Nilam Kumari, wife of Dinesh Rai, resident of village and Post Office Daud Rasalpur, Police Station Rasalpur, District Vaishali
4. Sonam Kumari, daughter of Lalit Narayan Rai, resident of village Harpur Pusa, Police Station Pusa, District Samastipur

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bikram Deo Singh

Mr. Anshu Dhar Sharma

For the Respondent/s : Mr. Vijay Bhushan Prasad

Ms. Vandana Singh

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**

**SHARAN SINGH**

**ORAL ORDER**

6      30-06-2017

A counter affidavit has been filed on behalf of Opposite Party Nos. 3 and 4, let the same be kept on record.

Heard Learned Counsel for the petitioner and learned Counsel appearing on behalf of the opposite parties.

Aggrieved by an order, dated 13.05.2016, passed by learned Principal Judge, Family Court, Samastipur, in Misc. Case No. 03 of 2013/95 of 2014, in exercise of power under Section 126 of the Code of



Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the petitioner has approached this Court.

The petitioner is the husband of Opposite Party No. 1 and father of Opposite Party Nos. 2 to 4. Initially, by order, dated 14.06.2010, passed in Maintenance Case no. 39 of 2008, Opposite Party Nos. 1, 2, 3 and 4 were allowed maintenance allowance at the rate of Rs. 2,000/- (Opposite Party No. 1) and Rs. 1,000/- (Opposite Party No. 2 to 4) respectively.

By the impugned order, the rate of monthly maintenance allowance has been enhanced to Rs. 5,000/- (Opposite Party No. 1) and Rs. 1500/- (Opposite Party No. 3 and 4) respectively.

A plea has been taken on behalf of the petitioner that since Opposite Party Nos. 3 and 4 are married daughters, they are not entitled to any maintenance allowance under Section 125 of the Code and, therefore, there would not have been any occasion for the learned Court below to have enhanced the amount, exercising power under Section 126 of the Code.

I have perused the impugned order. I do not find any material on record to show that this plea was specifically taken by the petitioner before the learned Court below that Opposite Party No. 4 is married. There is,



therefore, no finding on this point recorded by the learned Court below in the impugned order.

Learned Counsel for the petitioner has also submitted that specific plea was taken before the learned Court below that Opposite Party No. 3 is married and, therefore, not entitled for any maintenance allowance, which plea has not been duly considered by the learned Court below.

I have perused the records and the plea, which has been taken on behalf of the petitioner in the present criminal revision application.

The plea that Opposite Party No. 3 is married has been rejected by the learned Court below for want of evidence. I do not find any error in such finding recording by the learned Court below.

It has next been submitted that enhancement of the allowance from Rs. 2,000/- to Rs. 5,000/- to Opposite Party No. 1 and from Rs. 1,000/- to Rs. 1,500/- to Opposite Party Nos. 3 and 4 is unreasonable.

The petitioner does not dispute that the Opposite Party No. 1 is his wife and Opposite Party Nos. 3 and 4 are his daughters. This is also not in dispute that monthly income of the petitioner is nearly Rs. 21,000/-. In my view, an amount of Rs. 5,000/- per month for



maintenance of the wife and Rs. 1,500/- per month for maintenance of unmarried daughters cannot be said to be unreasonable or excessive.

Accordingly, I do not find any merit in this application. This application is accordingly dismissed.

It is, however, observed that if the petitioner has any concrete evidence to establish that Opposite Party Nos. 3 and 4 are married, he shall have the opportunity to approach the learned Court below for passing of necessary orders under appropriate provision of law.

**(Chakradhari Sharan Singh, J.)**

Prabhakar Anand/-

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