

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.33 of 2015

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1. Md. Jahangir, Son of Late Md. Alam Resident of Village - Barhara, Police Station - Barhara Kothi, District - Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Bibi Shabnam Khatoon, Daughter of Md. Hussain, resident of Mohalla - Mahboob Khan Tola, Police Station - K. Hat, District - Purnea.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Uday Chandra Prasad, Adv.
Mr. Manoj Kumar, Adv.

For the State : Mr. Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 31-01-2017

Heard the parties.

2. The petitioner is the husband of opposite party No.

2. He is aggrieved by an order, dated 18.11.2014, passed by the learned Principal Judge, Family Court, Purnea, in Maintenance Case No. 31 of 2008, whereby, he has been directed to pay a sum of Rs. 6,000/- per month to opposite party No. 2 as maintenance allowance with effect from the date of the order.

3. The marriage of the petitioner with opposite party



No. 2 is not in dispute. It is, however, the case of the petitioner that marriage between him and opposite party No. 2 stands dissolved with the decision of Imarat-E-Shariya, Phulwarisharif, whereby, Khulanama has been allowed in favour of opposite party No. 2. It is, accordingly, the plea of the petitioner that no maintenance allowance could have been ordered in exercise of power under Section 125 Code of Criminal Procedure, which can be given only to wife and legitimate children. The order impugned is also being challenged on the ground that considering the income of the petitioner, the amount, which has been allowed to be paid as maintenance amount, is excessive.

4. So far the first ground is concerned, the same was considered by the learned Family Court and the plea that the marriage between the petitioner and opposite party No. 2 stood dissolved has been rejected as no document could be proved by the petitioner before the court below. Such discussion is there in paragraph 6 of the order impugned from which it appears that the petitioner did not prove the said document by getting it exhibited. I do not find any infirmity in the order on this point.

5. Coming to the quantum of maintenance allowance ordered to be paid by the learned court below, it seems that the petitioner was working abroad (Saudi Arabia) for quite sometime.



Learned counsel for the petitioner has submitted that now he has returned from Saudi Arabia and his present source of income is not much as to pay to the opposite party No. 2 an amount of Rs. 6,000/- per month as maintenance allowance. He has referred to various evidence, documentary and oral, which have been taken into account by the learned court below. It also appears that the petitioner has re-married.

6. Considering the fact that the petitioner had been working abroad for quite sometime and is presently earning his livelihood, an amount of Rs. 6,000/- which has been directed to be paid by the court below, cannot be said to be excessive. Learned court below has looked into the expenses borne by the petitioner in going abroad in recent times. Accordingly, I do not find any merit in this application.

7. Learned counsel for the petitioner has, however, submitted that parties should have been allowed to go for one time settlement. He has also submitted that only because the petitioner is not having any decree of dissolution of marriage, he has been directed to pay the said amount. This Court cannot comment upon such submission for the present. It will be open to the petitioner to take recourse to provisions of law in this regard, as may be permissible to him and take steps for one-time settlement.



8. This application is, accordingly, disposed of but with the observation as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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