

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.278 of 2016

Arising Out of PS. Case No.- Year- Thana- District- Purnia

Md. Mahfuzullah, son of Late Md. Yunus, resident of village Domohna,
Police Station Joki Haat, District Araria

... .. Petitioner/s

Versus

1. Durreshahwar @ Guria, Daughter of Anwarul Haque
2. Raunaque Afroze @ Jugnu
3. Raushan Afroze @ Taiquir Afroze

Both serial Nos.2 and 3 are sons of Md. Mahfuzullah under the Guardianship
of their mother Durreshahwar @ Guria

All resident of Village- Bengdah, Post Office- Machhatta, Police Station-
Amaur, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 10-08-2017

Heard learned Counsel for the petitioner.

By the impugned order, dated 30.01.2016, passed in
Maintenance Case No. 63 of 2004, the learned Principal Judge,
Family Court, Purnea, has allowed maintenance at the rate of Rs.
1,000/-, for Opposite Party Nos. 2 and 3, from the date of filing of
petition, Rs. 3,000/- per month, from January, 2010, and Rs.
5,000/- per month from the date of judgment.

The Opposite Party Nos. 2 and 3 are, admittedly, sons of
the petitioner. In respect of Opposite Party No. 2, it is being
contended that he has attained majority. The Court below did not



allow any maintenance allowance in favour of Opposite Party No. 1, wife, since she was found to be earning and able to maintain herself.

The petitioner does not dispute the fact that Opposite Party Nos. 2 and 3 are his sons. A plea is being taken that the petitioner has married another lady and he has children from the second wife also and in that background, the amount, as directed to be paid, by the learned Court below, for maintenance of Opposite Party Nos. 2 and 3 is unreasonable. He has submitted that the petitioner, apart from maintaining his second wife and children, out of the said marriage, is under obligation to maintain his parents also and, therefore, he cannot maintain his sons. It has lastly been submitted with the petitioner is ready to keep the sons with him and to incur expenses on their education.

The plea, which is being taken on behalf of the petitioner, is not acceptable by this Court. When the petitioner is resisting payment of a nominal amount of Rs. 5,000/- for maintenance of his sons, it is not acceptable that he will be maintaining his sons from the first wife when he is living with the second wife and children. The conduct of the petitioner, in such circumstance, in resisting the claim of maintenance made for his sons, is not at all bona fide. If it is the claim of the petitioner that



Opposite Party No. 2 has attained majority, it is certainly upon him to approach the learned Court below for alteration of the amount of maintenance allowance in changed circumstance, under Section 127 of the Code of Criminal Procedure, 1973.

I do not find any merit in this application, which, according to me, is not bona fide and accordingly dismissed with cost of Rs. 10,000/-, payable to Opposite Party Nos. 2 and 3 (Rs. 5,000/- each) within a period of two months from today.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
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