

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.960 of 2014

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1. Ajay Singh Son of Mahendra Singh resident of village- Ratoi, P.S.- Roh,
District- Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. Patan Devi Daughter of Awadh Singh resident of village- Goithadih, P.S.
and District- Nawada
3. Dharmpal
4. Shishupal, both sons of Ajay Singh, under the guardianship of Patan
Devi, daughter of Awadh Singh, resident of village-Goithadih, P.S. and
District-Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Advocate

For the Respondent/s : Mr. Kalyan Shankar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

5 20-02-2017 By impugned order dated 03.05.2013, the court of

Principal Judge, Family Court, Nawada in Miscellaneous
(Maintenance) Case No. 23 of 2004 has allowed monthly
maintenance at the rate of Rs. 2,000/- to be paid to opposite party
No. 2 and her two children each (total Rs. 6,000/-), in exercise of
power under Section 125 of the Code of Criminal Procedure,
1973.

The petitioner is husband of opposite party No. 2. It
is his plea that he does not have any difficulty in making payment
of maintenance allowance to opposite party No. 2. However, so far



as two sons of the petitioner and opposite party No. 2 are concerned, it is his contention that they are living with the petitioner and, therefore, there is no question of making any payment for their maintenance. He has submitted that for some compelling reasons, the petitioner could not appear before the court below in maintenance proceeding because of which ex-parte order has been passed, which is under challenge in the present case.

I have heard learned counsel appearing on behalf of the opposite party No. 2 also. He submits that he does not have any specific instruction as to whether the two children are living with the petitioner or opposite party No. 2. He also submits that if the petitioner can establish that the children are living with him, the opposite party No. 2 can not claim maintenance in their respect.

Since the order, which has been passed by the court below did not have the occasion to take into account the stand of the petitioner that the children are living with him, the order passed cannot be said to be suffering from any legal infirmity. However, in my view, if any application is filed under Section 127 of the Code of Criminal Procedure by the parties for alteration of



allowances in the changed circumstance, the same shall be disposed of taking into account all the facts and circumstances including the plea that children are living with the petitioner.

This application stands disposed of with the observation as above.

(Chakradhari Sharan Singh, J)

Vats/-

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