

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1027 of 2014

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1. Lal Babu Sah Son of Late Jagarnath Sah resident of Mohalla- Chhota Tumariya Tola, Ward No.-4 Raxaul, P.S.- Raxaul, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rekha Devi Wife of Late Babu Sah, Daughter of Binod Sah resident of Mohalla Officers Colony Bettiah, P.S.- Bettiah Town, District- West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Respondent/s : Mr. Navin Kumar Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 16-02-2017

Heard learned counsel for the parties.

2. The petitioner has three children. The Opposite party No.2 is his wife. By an order dated 27.09.2012 passed in Maintenance Case No. 05 of 2010, learned Principal Judge, Family Court, West Champaran has allowed monthly maintenance at the Rate of Rs. 1,000/- for his three minor children and Rs.2,000/- for Opposite party No.2, his wife. The said order is being assailed in the present criminal revision application filed under Section 19(4) of the Family Court Act.

3. Learned counsel appearing on behalf of the petitioner has submitted that the petitioner has no regular source of income and without recording any finding that the petitioner has sufficient means of income, the court below



has allowed monthly maintenance to be paid.

4. He has relied on a Division Bench judgment of this Court in case of ***Lalji Yadav Vs. State of Bihar and ors*** reported in ***2011 (4) PLJR 248*** with special reference to Paragraphs 17, 18 and 19.

5. I have perused the impugned order from which it appears that the Opposite party No.2 adduced evidence before the Court below to the effect that she did not have any source of income and sufficient means to maintain herself and three children. She also adduced evidence to the effect that her husband, i.e. the petitioner was having sufficient means of income but had neglected her and refused to maintain her. The petitioner did not adduce any evidence to controvert the evidence adduced by the Opposite party No.2 before the Court below.

6. The Division Bench decision of this Court in case of Lalji Yadav (supra), says that for invoking of Section 125 of the Code of Criminal procedure, 1973, two conditions have to be satisfied. Firstly, the wife must show that she is unable to maintain herself and secondly that her husband has sufficient means but neglects or refuses to maintain her.

7. On perusal of the impugned order, it cannot be said that the Opposite party No.2 did not lead evidence to the effect that she was unable to maintain herself and the



petitioner had sufficient means of earning but has neglected/refused to maintain. The contention made in behalf of the cannot be accepted.

8. For maintenance of three minor children, and wife, monthly allowance at the rate of Rs. 5,000/- cannot be said to be unreasonable.

9. This application has no merit and it is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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