

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37133 of 2014

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Ram Sharan @ Ram Sharan Mahto, Son of Sri Ram Khelawan Mahto,
Resident of Village-Bathnaha, P.O.-Bathnaha, P.S.-Phulparas, District-
Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. Smt. Sarita Devi Wife of Shri Ram Sharan Mahto daughter of Shri Ram Lakhan Mahto
3. Krishna Kumar minor son of Shri Ram Sharan Mahto
4. Niraj Kumar minor son of Shri Ram Sharan Mahto Opp. Party No.-3 and 4 are under the guardianship of their mother namely Sarita Devi (O.P. No.-2) Opp. Party No.-2 to 4 are at present residing at Village-Bardahi, P.S.-Andhratharhi, District-Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. R.K. Sinha no. 2, Advocate
	:	Mr. Satyendra Prasad, Advocate
For State	:	Mr. Jitendra Kr. Singh, Advocate
For the O.P. no. 2	:	Mr. Sanjay Kumar Jha (App)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

9 16-08-2017 Heard Mr. R.K. Sinha no. 2, learned counsel for

the petitioner and Mr. Satyendra Prasad, learned counsel for

opposite party no. 2.

The present matter arises out of the petition dated
17.07.2012 bearing M.R. no. 156 of 2012 filed by the opposite
party no. 2 namely Sarita Devi and her two minor children against
the petitioner herein, alleging therein that her marriage had taken
place according to Hindu rites and customs with the petitioner
herein, however, she has been kicked out of the matrimonial house



on 05.07.2011. It has been stated that the petitioner herein is having an income of around Rs. 15,000/- and has sufficient land from which, he has a decent source of income and he is also having income from business, hence she had prayed for grant of maintenance.

The aforesaid M.R. case no. 156 of 2012 appears to have lingered from the year 2012 whereupon, the opposite party no. 2 had filed a petition dated 12.03.2013 *inter alia* stating therein that she and her children are on the verge of starvation, hence immediate maintenance be awarded to her @ 5,000/- per month along with the litigation cost of Rs. 20,000/-.

The learned counsel for the petitioner submits that in reply, the petitioner herein had filed a petition dated 12.03.2013 in the aforesaid M.R. case no. 156 of 2012 stating therein that he was a poor person and was a simple labour.

Upon perusal of the records and hearing the parties, the learned court of Family Judge, Madhubani by a reasoned order dated 20.06.2013 passed in maintenance case no. 156 of 2012 directed for payment of lumpsum amount of Rs. 5,000/- by way of litigation cost and further, a sum of Rs. 1000/- per month by way of maintenance with effect from the next month of the passing of the order.



The learned counsel for the petitioner has submitted that he being a labour and a poor person is not in a position to pay even a sum of Rs. 1000/-.

Per contra learned counsel for opposite party no. 2 submits that the opposite party no. 2 is in a state of pecuniary crisis and it is absolutely impossible to maintain her and her two children.

At the outset, I find from the records that though the impugned order was passed on 20.06.2013 but the petitioner has not bothered to honour the same and till date, not a single penny has been given to opposite party no. 2. I feel that a person who has no regard for the orders of the court, is not entitled for any relief by this Court.

However coming to the merits of the case, I find that it is a trite law that the husband is bound to maintain her wife in the same condition and on the same status which was prevailing on the date of the marriage. In such view of the matter, if the husband had solemnized marriage with opposite party no. 2 and thereafter children have also been born out of the wedlock, it is the duty of the petitioner to maintain them. The amount awarded by the learned lower court is meager i.e. only a sum of 1000/- per month. I do not deem it fit and proper to interfere with the



impugned order dated 20.06.2013, though I feel that the same deserves enhancement but considering the fact that the present petition has been filed at the behest of the husband/ petitioner, I refrain from increasing the amount.

For the reasons stated hereinabove, there is no merit in the present petition and the same is dismissed.

(Mohit Kumar Shah, J.)

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