

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1246 of 2016

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Tabrej Khan @ Tabrej Alam Khan, son of Idrish Khan, Resident of Village-Sadhbailly, P.S.-Kasaba, District-Purnea, at present resident of Mohalla-Sadpura, P.S.-Kazi Mohammadpur, District-Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Baby Khatoon, Wife of Tabrej Khan, Daughter of Shekh Manir, Resident of Village-Sadhbailly, P.S.-Kasaba, District-Purnea

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Sri Ram Naresh Ray, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 11-05-2017 Undeniably, the petitioner is husband of opposite party No. 2. By an order dated 18.12.2015 passed by learned Principal Judge, Family Court, Purnea in Maintenance Case No. 123 of 2007 under Section 125 of the Code of Criminal Procedure, an amount of Rs. 4000/- per month has been allowed in favour of opposite party No. 2 as maintenance allowance. The said order is being assailed in the present criminal revision application filed under Section 19(4) of the Code of Criminal Procedure.

Learned counsel for the petitioner, in order to assail the impugned order, has made two broad submissions. He has firstly submitted that there is no discussion in the impugned order as to what is the actual income of the petitioner before fixing the amount of Rs. 4000/- per month as maintenance allowance. It has,



secondly, been submitted that though the petitioner is willing to live with opposite party No. 2, she has out of her volition left the company of the petitioner and, therefore, she is not entitled to any maintenance. At the same breath, it has been argued that the petitioner has pronounced Talak in presence of opposite party No. 2 in front of Panches since the opposite party No. 2 had declined to live the petitioner.

From the impugned order, I find that the petitioner did not present himself for his evidence before the court below. The petitioner is not disclosing as to what is the actual income. The decision of the court below is based on the evidence that was adduced before it. Considering the entire facts and circumstances and evidence, the court below found a sum of Rs. 4000/- as befitting amount to be paid for the petitioner for maintenance of opposite party No. 2. Learned counsel for the petitioner has submitted in course of argument that the petitioner works as a Maulvi in one of the mosques.

Be that as it may, I do not intend to interfere with the impugned order in criminal revisional jurisdiction as I do not find that any case of gross injustice is made out with the passing of the impugned order dated 18.12.2015. Sum of Rs. 4000/- per month as maintenance allowance cannot be said to be excessive.



Considering the fact that the petitioner has not been fair enough to disclose his own income, I am not inclined to interfere with the impugned order.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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