

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.25 of 2017

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

Abdul Malek, son of Late Mahiuddin, resident of village Puria, Police Station Abadpur, District katihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bibi Wazifa Khatoon, daughter of Jasimuddin,
3. Manju, daughter of Abdul Malek
4. Sarukh, son of Abdul Malek
5. Anju, daughter of Abdul Malek
6. Rubi, daughter of Abdul Malek
3 to 6 are minor children and are represented by her mother, i.e. natural guardian, Opposite Party No. 2
2 to 6 are resident of village Guwal Toli, Police Station Abadpur, District Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Musowir
For the Respondent/s : Mr. DR. AJEET KUMAR

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 11-08-2017 Heard learned Counsel for the parties concerned.

By the impugned order, dated 23.08.2016, passed by learned Principal Judge, Family Court, Katihar, the petitioner has been directed to pay a sum of Rs. 4,000/- per month to the Opposite Party No. 2 for maintenance.

This is not in dispute that the petitioner and Opposite Party No. 2 were married to each other and Opposite Party Nos. 3 to 6 are born out of the said wedlock. The Opposite Party Nos. 3 to 6 are getting maintenance at the rate of Rs. 400/- per month each.



Earlier, the Opposite Party No. 2 was getting maintenance at the rate of Rs. 2,500/-. Now, the learned Court below has awarded a sum of Rs. 4,000/- as monthly maintenance allowance.

Learned Counsel appearing on behalf of the petitioner, assailing the impugned order, has submitted that the dispute between the parties stood resolved with agreement entered into between them on conclusion of a mediation proceeding. He has submitted that the Opposite Party No. 2 cannot be said to be liable for anything over and above the terms of agreement entered into by them.

I have perused the terms of negotiated settlement, which has been brought on record by way of Annexure 2 to this application. I find that the dispute in relation to the maintenance and some other ancillary matters were not resolved during the mediation and it was left open for a decision by a court of competent jurisdiction. In that background, the learned Court below has allowed monthly maintenance allowance at the rate of Rs. 4,000/- per month.

I do not intend to interfere with the impugned order for more than one reasons. This is not in dispute that Opposite Party Nos. 3 to 6 are minor children born of the wedlock of the petitioner and the Opposite Party No. 2. The children are



residing with Opposite Party No. 2. The amount, which the petitioner is paying in the name of maintenance of said minor children at the rate of Rs. 400/- per month is too meager amount. Keeping that in mind, if the Court below has allowed Rs. 4,000/- per month for maintenance in favour of Opposite Party No. 2, I do not find any error or illegality.

Learned Counsel for the petitioner has submitted that the petitioner has divorced Opposite Party No. 2 and, therefore, the Opposite Party No. 2 is not entitled for maintenance under Section 125 of the Code of Criminal Procedure, 1973.

The said plea is completely mistaken and deserves to be rejected.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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