

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.743 of 2014

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Prabhu Narayan Labh Son of late Badri Narayan Labh, resident of village Gorapatti, P.S. Ashok Paper Mills, District –Darbhanga, at present resides at Mohalla Gandhi Nagar , P.S.-Sadar, district- Darbhanga

.... Petitioner/s

Versus

Rita Devi wife of Ram Shanker Karn, resident of village Rawani, P.s. Jhanjharpur, District-Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Karn, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 28-03-2017 By the impugned order dated 30.04.2001 learned Judicial Magistrate 1st Class, Darbhanga has allowed monthly maintenance allowance at the rate of Rs. 500/- in favour of minor daughter of the opposite party, in exercise of power under Section 125 of the Code of Criminal Procedure.

The opposite party had filed the said application under Section 125 of the Code of Criminal Procedure claiming herself to be wife of the petitioner having a minor daughter out of the relationship between petitioner and the opposite party.

From the impugned order, I find that the court below refused to allow any maintenance allowance in favour of the opposite party in view of concrete evidence before the court below that the petitioner was married to some one else and on the basis



of relationship which the opposite party claimed to be having with the petitioner, no monthly maintenance could be allowed under Section 125 of the Code of Criminal Procedure. However, the court below held the daughter of the opposite party to be born of relationship between the petitioner and the opposite party.

On careful examination of the impugned order, I find that there is no conclusive basis referred for arriving at the conclusion that the opposite party had given birth to female child out of her relationship with the petitioner. The finding recorded in the impugned order, in my view, suffers from perversity. The impugned order dated 30.04.2001 is accordingly set aside.

This application is allowed.

(Chakradhari Sharan Singh, J)

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