

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27408 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- MUNGER

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Bindu Pandit, Son of Late Mishri Pandit, Resident of Village - Halimpur, P.O. -
Halimpur, P.S. - Narayan Nagar, District - Munger, At present, Line Khalasi, Chief
Electrical Engineer, Eastern Railway, Fairlie Palace, 3rd Floor, 17 Netaji Subhash
Road, Kolkata

.... Petitioner/s

Versus

1. The State of Bihar
2. Nirmala Devi, Wife of Bindu Pandit, resident of village - Halimpur, P.O. -
Halimpur, P.S. - Nayaram Nagar, District - Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tarkeshwar Pd. Verma, Advocate.
For the State : Mr. Nand Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 01-12-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 01.08.2013 under Section 125 Cr. P.C. passed by the learned Principal Judge, Family Court, Munger, in Maintenance Case no. 404 of 2013 whereby and whereunder the petition dated 17.12.2013 filed on behalf of the petitioner (husband) challenging maintainability of the maintenance case has been dismissed with cost of Rs.5,000/- payable by the petitioner (husband) to the opposite party No. 2 (wife).

2. Heard learned counsel for the petitioner and learned counsel for the State.



3. The petitioner has submitted that this is second maintenance case filed by the opposite party No. 2 against the petitioner. Earlier Maintenance Case under Section 125 Cr. P.C. was filed by the opposite party No. 2 against the petitioner vide Maintenance Case No. 21M of 1996. The maintenance order passed in aforesaid case was cancelled by the court below under the provision of Section 127 Cr. P.C. on 17.5.2008 on the ground that opposite party No. 2 is leading adulterous life with one Pramod Pandit.

4. The revision application filed against the aforesaid order by opposite party No. 2 was dismissed by this Hon'ble High Court vide order dated 20.10.2008 in Criminal Revision No. 967 of 2008.

5. Learned counsel for the opposite party No. 2 has appeared and submitted that totally false allegation has been levelled that the opposite party No. 2 is leading adulterous life with Pramod Pandit. Pramod Pandit has faced trial for the aforesaid allegation vide Sessions Trial No. 784 of 2007 and he was acquitted of the charge of adultery vide Judgment dated 6.9.2011 passed by the learned Additional Sessions Judge, Fast Track Court-II, Munger. Learned counsel for the opposite party No. 2 has further submitted that leveling false allegation of adultery against a lady is itself a cruelty.

6. The court below has rejected the petition filed by



the petitioner challenging the maintainability of the second Maintenance Case filed by the opposite party No. 2 against the petitioner on the ground that now at changed situation, the second application under Section 125 Cr. P.C. will be maintainable.

7. Therefore, this Court does not find any illegality in the impugned order dated 01.08.2013 whereby the court below has held that proceeding under Section 125 Cr. P.C. is maintainable.

8. This Criminal Miscellaneous application is accordingly dismissed.

9. The court below is directed to proceed in Maintenance Case in accordance with law.

10. The court below will give short adjournment in the case after issuance of notice to the petitioner and will make efforts to pass final order in Maintenance case as early as possible preferably within a period of six months from the date of receipt/production of a copy of this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08/12/2017
Transmission Date	08/12/2017

