

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.716 of 2014

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1. Nipendra Bishwas Son of Jagdish Bishwas resident of mohalla-
Ramnagar, Police Station- K. Hat (Maranga), District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kanak Lata Devi Wife of Nipendra Bishwas, Daughter of Dr. Sudhir Kumar Mandal resident of village- Tikapatti, Police Station- Tikapatti (Rupauli), District- Purnea
3. Sakshi Kumari Daughter of Nipendra Bishwas (Being Minor living under the guardianship of her mother Kanak Lata Devi) resident of village- Tikapatti, Police Station- Tikapatti (Rupauli), District- Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Sanjeev Kumar
Mr.. Sudhir Kumar Thakur
For the Respondent/s : Mr. Ashok Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

6 30-06-2017 Regard being had to the order of this Court, dated
06.03.2017 and subsequent order, dated 06.04.2017.

The petitioner is husband of Opposite party No.2 and father of Opposite party No.3. By an order, dated 15.05.2014, passed by learned Principal Judge, Family Court, Purnea, a sum of Rs. 3500/- and Rs. 2500/- has been granted as monthly maintenance allowance in favour of Opposite party Nos. 2 and 3, who are wife and daughter of the petitioner respectively.

When the matter was taken up on previous occasion, it was noticed that the petitioner was not paying



the monthly maintenance allowance by the Court below and accordingly, the petitioner was asked to pay the monthly maintenance allowance during the pendency of this application.

Learned counsel appearing on behalf of the petitioner has submitted that as on date a total sum of Rs. 2,22,000/- is due on the petitioner to be paid to Opposite party No.2, out of which Rs. 99,000/- has been paid. He has stated that rest of the amount shall be paid within three months from today. Learned counsel for the petitioner does not dispute that the said arrears will now be a sum of Rs. 2,40,000/-. He submits that within the said period of three months the petitioner shall pay to Opposite party No.2 the entire amount of Rs. 2,40,000/-, which are arrears payable under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code).

Coming to the question of correctness of the impugned order passed by the learned Principal Judge, Family Court, Purnea, I am of the considered view that amount of Rs. 3500/- and Rs. 2500/- allowed in favour of Opposite party Nos. 2 and 3 respectively cannot be said to be excessive.

Learned counsel for the petitioner, has, however, submitted that by the impugned order the maintenance



allowance has been granted with effect from the date of application. According to him, it should have been allowed from the date of the order.

From the pleadings and other materials on record, it is evident that the application for maintenance was filed in the year 2006 whereas the judgment came to be delivered by learned Principal Judge, Family Court, Purnea, on 15.05.2014. Thus, it took eight years for the Court below to decide the application filed on behalf of Opposite party No.2 for maintenance. There is nothing on record to show that during the said period of eight years any maintenance allowance was being given to Opposite party No.2.

Section 125 (2) of the Code confers upon the Court to decide whether allowance for maintenance shall be payable from the date of order or from the date of application for maintenance allowance.

Learned counsel for the petitioner has submitted that the Court below ought to have assigned reasons before directing payment of maintenance allowance from the date of filing of the application. Sub-Section (2) of Section 125 of the Code reads thus:-

"Section 125 (1) * * *

(2) Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance."



From bare reading of the said provision that it is clear that it is not required for the Family Court to assign reason while directing payment of maintenance allowance from the date of application. I am of the view that since the Opposite party NO.2 was not getting any maintenance allowance, the Court below was justified in granting the maintenance allowance from the date of the filing of the application.

This application is accordingly, dismissed but with the observation as above.

(Chakradhari Sharan Singh, J)

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