

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12196 of 2016

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

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Chotu Lal Das son of Ravi Lal Das, resident of village- Dhamgajra, Khwaspur, P.S-
Simraha, Dist- Araria.

.... Petitioner/s

Versus

1. The State of Bihar
 2. Kalpana Devi wife of Chotu Lal Das, daughter of Gahan Lal Das
 3. Khusboo Kumari daughter of Chotu Lal Das through Kalpana Devi (Mother)
 4. Sushma Kumari daughter of Chotu Lal Das through Kalpana Devi (Mother)
 5. Vikash Devi son of Chotu Lal Das through Kalpana Devi (Mother)
- All are resident of village- Dhommriya (Madanpur), P.S.- Araria, District-
Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Mandal, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 15-01-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the final order dated 21.06.2013 passed in Maintenance Case No.67 of 2011 by which the Principal Judge, Family Court, Purnea directed for payment of rupees 1,500/- to the opposite party no.2 and Rs.400/- each to the opposite party nos.3 to 5 per month as maintenance allowance from the date of order payable on 22nd day of each month in a proceeding under Section 125 of the Cr.P.C.

2. The brief facts of the case are that the opposite party no.2 Kalpana Devi, wife of the petitioner filed Maintenance Case No.67 of



2011 before the learned Principal Judge, Family Court, Purnea under section 125 of the Cr.P.C. stating therein that she was married to the petitioner 16/17 years ago. The couple was blessed with two daughters and one son out of the wedlock. Thereafter, the petitioner and his family members started subjecting the opposite party no.2 to cruelty for non-fulfillment of demand of buffalo and rupees ten thousand as dowry. When parent of opposite party no.2 went to the matrimonial home of her daughter to materialize the matter then he was abused and ousted from home. The opposite party no.2 further stated that on account of cruelty meted out upon her she came back to her **Maike** with her children. Thereafter, conciliation was made, but the petitioner was adamant on his demand. She further stated that she filed a complaint case vide Complaint Case No.64 of 2000 under Sections 498A and 379 of the Indian Penal Code and sections 3 and 4 of the Dowry Prohibition Act. She has stated that the petitioner has deserted her and she has no source of income to maintain herself and her minor children whereas the petitioner has one acre land from which he earns rupees three thousand per month and apart from that he earns rupees three thousand per month doing labour work. She claimed rupees four thousand per month as maintenance allowance.

3. It is submitted by the learned counsel for the petitioner that the impugned order has been passed behind the back of the



petitioner. He submitted that the petitioner had no knowledge of pendency of the maintenance case against him. He submitted that there is no truth behind the allegations that the petitioner has deserted his wife rather the fact is that due to poverty of the petitioner the opposite party no.2 herself abandoned the matrimonial home along with their children. He submitted that the petitioner is willing to keep his wife and children in his home.

4. On the other hand, learned counsel for the State submitted that the petitioner has not brought on record the entire order-sheet to show that no notice or summon was ever served upon him. He submitted that from the order impugned it would be manifest that summons were duly served upon him and despite service of summon the petitioner refused to participate in the proceeding before the court pursuant to which the matter proceeded ex-parte and after examination of opposite party no.2 and three other witnesses the Family Court directed to pay rupees fifteen hundred per month to opposite party no.2 and rupees four hundred per month each to her children till the date of attaining majority as maintenance allowance.

5. I have heard learned counsel for the parties and perused the record.

6. From perusal of the record it would be manifest that after service of summons/notice the petitioner did not appear to contest the



case. Hence, the case proceeded ex-parte. Further, in absence of the petitioner, reconciliation could not be effected. It would be further manifest that the opposite party no.2 examined herself in support of her claim of maintenance and apart from that three witnesses namely, Surendra Prasad Das, Ghan Lal Das and Paro Devi appeared to depose before the Family Court in support of the claim of the maintenance. I find that the court below has correctly appreciated the facts and law involved in the case and has allowed reasonable amount of maintenance in favour of the opposite parties finding them unable to maintain themselves.

7. In absence of any error in the order impugned, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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