

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18298 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- BHABHUA (KAIMUR)

- =====
1. Nibha Kumari, aged about 13 years, Minor daughter of Sunil Chaudhary
 2. Sheru Chaudhary , aged about 11 years, Minor son of Sunil Chaudhary
 3. Muni Kumari , aged about 9 years, Minor daughter of Sunil Chaudhary
 4. Chhoti Kumari , aged about 6 years, Minor daughter of Sunil Chaudhary.

All are under guardianship of his/her grand father (Nana) namely Ram Dular Chaudhary residents of Village Tekari Kala, Police Station - Mohania, District - Kaimur and next friend, At present resident of Village - Bamhaur, Police Station - Mohania, District - Kaimur.

.... Petitioners

Versus

1. The State of Bihar.
2. Sunil Chaudhary son of late Ram Bhajan Chaudhary resident of Village - Tekari Kala, Police Station - Mohania, District - Kaimur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar, Adv.
For the Opposite Party/s : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-08-2018

This application under Section 482 of the Code of Criminal Procedure (for short “CrPC”) has been filed by the petitioners for quashing the order dated 05.12.2017 passed by learned Principal Judge, Family Court, Kaimur in Maintenance Case No. 43 of 2014 whereby he has rejected the application filed by the petitioner for enhancement of interim maintenance of the children.

2. The application for maintenance was filed under Section 125 of the CrPC. In **Md. Akil Ahmad vs. The State of Bihar and**



Anr reported in 2016(4) PLJR 968, the Division Bench of this Court held that against an order of interim maintenance passed under Section 125 of the CrPC, an application under Section 482 of CrPC would not be maintainable. The Bench has further held that only an application under Article 227 of the Constitution of India would be maintainable against an order passed under Section 125 of CrPC.

3. In that view of the matter, this application is dismissed as not maintainable.

4. However, the petitioner would be at liberty to challenge the impugned order by way of filing an appropriate application under Article 227 of the Constitution of India before this Court.

(Ashwani Kumar Singh, J)

Kanchan/SkSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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