

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24621 of 2016

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

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Abdul Shakur son of Late Faijuddin Munshi resident of Village -Kusaul, P.S. Azam
Nagar, District -Katihar

.... Petitioner

Versus

1. The State of Bihar.
2. Bibi Sarifan Nisha wife of Abdul Shakur, resident of Village-Islampur, P.S.
Azam Nagar, District- Katihar.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Singh, Advocate
For the Opposite Party : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-05-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'CrPC') has been filed by the petitioner for quashing the order dated 17.02.2016 passed by the learned Additional Principal Judge, Katihar in Misc. Case No. 3 of 2007 whereby the petition under Section 127 of the CrPC filed by the petitioner has been rejected and the petitioner has been directed to pay Rs.1000/- per month to opposite party no. 2 and her handicapped child.

2. Learned counsel for the petitioner submitted that after maintenance allowance was passed in favour of opposite party no. 2, she had filed an application for taking benefit under Indira Awas Scheme in which she had shown her husband to be dead. He submitted that in view of fraud played by opposite party no. 2 for



obtaining the benefit under Indira Awas Scheme, learned Additional Principal Judge, Family Court, Katihar ought to have allowed the petition filed by the petitioner under Section 127 of the CrPC.

3. Having heard learned counsel for the petitioner and perused the impugned order, I find no merit in this application.

4. Section 127 of the CrPC confers power upon the Court to make such alternation as it deems fit in the maintenance allowance on the ground of change in the circumstances of any person receiving monthly maintenance allowance. The benefit of Indira Awas Scheme taken by the opposite party no. 2 showing the petitioner to be dead cannot be a valid ground for alteration of maintenance allowance or for cancelling the maintenance allowance. The alleged act does not show any change in the financial status of opposite party no. 2 or the financial status of the petitioner. The alleged act of fraud, if true, may attract some other action, but the same cannot be a ground for altering or cancelling the maintenance.

5. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
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