

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.108 of 2015

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1. Smt. Anita Sinha @ Anita Singh, Wife of Niraj Kumar Sinha
2. Mr. Harsh kumar, Son of Sri Niraj Kumar Sinha, minor Son under the Guardianship of his natural mother, Anita Sinha, both residents of Sankat Mochan Path, Mitra Mandal Colony, P.S- Phulwari Sharif Ditriect - Patna.
.... Petitioners

Versus

1. The State of Bihar
2. Sri Niraj kumar Sinha, Son of Late Nand Kishore Prasad, Resident of mohalla - Tilak nagar, Station Road, Begusarai, P.S- Beghusarari Distt- Begusarai, at present posted at Vocational Rehabilitation. Centre (V.R.C) A/84 Gandhi Vihar, Police Colony, P.S- Phulwari Sharif through M.P Pathak, Director, VRC, Patna At present at C/o Maa Sheetla Sweets, P.S- Agam kuan District – Patna
.... Respondents

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Appearance :

For the Petitioners : Mr. Rakesh Kumar, Adv.
For the Respondents : Mr. Indu Bala Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 15-01-2018

Heard the learned counsel for the parties.

2. The petitioners have challenged the order, dated 14.11.2014, passed by the learned Additional Principal Judge, Family Court, Patna, in Miscellaneous Case No. 4 of 2012 whereby the prayer on behalf of the petitioners for enhancing the maintenance allowance from Rs.6,000/- to Rs.13,000/- has been rejected.

3. The learned counsel for the petitioners has submitted that pursuant to the order passed by a Bench of this court on 06.08.2010, the petitioners were getting a monthly maintenance of Rs.6,000/- per month.

4. The miscellaneous application under Section 127 of the Code of Criminal Procedure was filed for enhancement the maintenance allowance so as to include the maintenance to the son of the petitioner born out of her wedlock with respondent no. 2.

5. From the perusal of the order impugned it appears



that the learned Family Court has refused to advert to the miscellaneous application merely on the ground that any order passed by the Family Court would be an interference with the order dated 06.08.2010 passed by the High Court in Miscellaneous Case No. 733 of 2009.

6. This is an erroneous presumption of the learned Family Court.

7. A fresh circumstance was placed before the Family Court for adjudication. Any order passed by the Family Court on such miscellaneous application would not be considered to be any interference with the order passed by this Court in another miscellaneous appeal earlier.

8. As such, the order, dated 14.11.2014, is **set aside**. A fresh application shall be filed by the petitioners seeking enhancement before the Family Court. Once, such an application is filed, the Court below shall apply its own mind and shall look into the circumstances under which such enhancement is being sought and dispose off such application in accordance with law, preferably within a reasonable time of two months.

9. With the aforesaid direction, the present criminal revision petition is **disposed off**.

(Ashutosh Kumar, J)

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