

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.779 of 2015

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

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1. Kumar Nalin @ Bholu Prasad @ Nalin Kumar Son of Ganesh Prasad resident of village - Pipara, P.O. Damodarpur, P.S. Pipara, District - East Champaran

.... Petitioner

Versus

1. The State of Bihar
2. Krishna Kali @ Neeta Daughter of Sri Bijendra Prasad Suman, Wife of Kumar Nalin Presently residing at village - Ranjeetpur, P.S. Sitamarhi, District - Sitamarhi

.... Respondents

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Appearance :

For the Petitioner : Mr. Mahesh Parvat, Sr. Adv.

Mr. Bhanu Prakash, Adv.

For the Respondents : Mr. Dinesh Jha

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 30-10-2018

This revision application has been preferred against the order dated 10.8.2015 passed by the Principal Judge, Family Court, Sitamarhi in Maintenance Case No.80 of 2007 whereby the learned Principal Judge has allowed the maintenance case filed by the O.P.No.2 under Section 125 of the Code of Criminal Procedure directing the petitioner to provide Rs.5,000/- to O.P.No.2 by 15th day of each succeeding month i.e. Rs.2,000/- for the maintenance of the O.P.No.2 while Rs.1,500/- for each minor children of Opposite Party no.2 till attaining their majority or till their marriage in case of female minor.



2. It appears that the O.P.No.2 was married to the petitioner as per the Hindu rites and customs and from their bedlocks there is one daughter and one son. It is the case of the O.P.no.2 that in the year, 2003 while the petitioner was posted at Ambala Cant. The matter became so serious that the petitioner turned her from his house and O.P.No.2 any how came to Delhi and she was so frustrated that she decided to commit suicide, however, she was again sent to the Ambala Cant. Further case is that the things did not improved and she complained about the same to the Commanding Officer also. Further case of the O.P.No.2 is that the petitioner wrote a letter to her parents that he will not keep her in his house and she was brought to her father's place and the petitioner took her signature on the plain paper and deserted the O.P.NO.2 and the O.P.No.2 had no means for livelihood so she filed petition for maintenance.

3. On the other hand the case of the petitioner is that she is of modern mentality, does not want to live with the petitioner. Further case is that he is ready to maintain his wife and children and he assisted his wife and children which will appear from his accounts. Further case is that she is a graduate and trained Nursery Teacher and during pendency of the case a supplementary affidavit has been filed in this Court, stating that she is employed in DAV School and she is



getting Rs.29,236/- per month and further the daughter of the petitioner is an IIT Graduate and employed on package of Rs.30 lakh per annum and son of the petitioner is also studying in IIT. Whereas it has been stated that he is getting Rs.18,040/- per month as pension and he has to look after his widow mother and he has only three bigha and 10 katha of land.

4. Learned counsel for the petitioner has submitted that without considering the aforesaid fact the learned family court has passed the maintenace order of Rs.5,000/- for the O.P.no.2 and his son and daughter

5. On the other hand learned counsel for the O.P.No.2 has submitted that the order of maintenance passed in the year, 2015 against the petitioner was directed to make payment from the filing of the maintenance petition but no amount has been paid to her and she had to spent in the education of her son and daughter and she was earlier not getting any salary and later on she started receiving salary from the year, 2016 and his daughter is not in permanent job and Rs.6 lac is due as arrear to the petitioner. However, Opposite Party No.2 has not denied about her present income and job to her daughter.

6. Earlier learned counsel for both the parties had argued that best out come of this litigation would be settlement of



matrimonial dispute between the parties which will appear from order dated 22.06.2018.

7. In course of argument, learned counsel for the petitioner has submitted that though now the O.P.no.2 is employed and she is getting handsome salary and the daughter of O.P.no.2 has also got package of Rs.30 lac per annum, hence condition of the O.P.no.2 has improved. But in the education of her son and daughter she is debt, whereas the petitioner was getting pension apart from the agricultural property but he has not paid the maintenance amount from the date of filing of the petition in the year, 2016 as such if petitioner is ready to pay Rs.6 lac to the O.P.No.2 she will undertake not to claim for further maintenance from the petitioner.

8. After some argument, the learned counsel for the petitioner agrees to make payment of lump sum of Rs.5 lac on condition that she will not demand maintenance further for herself or her daughter or son.

9. In such view of the matter, this maintenance application is disposed of with direction to the petitioner to pay Rs.5 lac in two installment within a period of 6 months and the O.P.no.2 and her daughter and son will not claim any further maintenance for herself and daughter and son, however it is open to her and her daughter and



son to move for share in the property of the petitioner if they so desire.

10. With the aforesaid observation, this application is disposed of.

(Vinod Kumar Sinha, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	06.11.2018
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