

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7747 of 2015

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Lalan Sah @ Lalan Kumar S/o Brahmdeo Sah @ Mushahru Sah, Resident of
Village- Jogia, P.S. Alauli, District- Khagaria

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Mala Devi Wife of Lalan Sah, Daughter of Ram Charitra Sah, Resident of
Village- Sharhen, P.S. Hasanpur, District- Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Dular Sah, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-04-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 (hereinafter referred to as
the ‘Code’) for the following relief:

*“ That this application is being filed for quashing the
order dated 19.9.2014 passed by the learned Principal
Judge, Samastipur u/s 125 Cr.P.C. in Maintenance Case
no. 44/2012 whereby and whereunder total maintenance
of 4000/- has been awarded in favour of O.P. No. 2 and
her children and against the petitioner under the wrong
facts and circumstances.”*

3. Learned counsel for the petitioner submitted that
though the order has been passed for payment of maintenance of
Rs. 4,000/- to the opposite party no. 2 and her two daughters, but



during the pendency of the case, the wife as well as two daughters have come back to the matrimonial home and the whole family is living together.

4. Learned APP submitted that in such view of the matter, the Court may dispose off the matter with liberty to the petitioner to raise the issue before the Court below itself.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the application stands disposed off with liberty to the petitioner to file a joint application with the opposite party no. 2 before the Court below itself praying for withdrawal of the order granting maintenance as well as the Maintenance Case No. 44 of 2012. The petitioner and the opposite party no. 2 shall also be present before the Court. The Court below shall satisfy itself that such petition is *bona fide* and has been filed willingly by the opposite party no. 2 and that she and her two daughters are living in the matrimonial home, along with the petitioner, with full dignity, honour and security. The Court would also take an undertaking from the petitioner that he shall keep the opposite party no. 2 and the two children with him with full dignity, honour and security and shall also take care of all their needs, including medical expenses. He shall also undertake that the opposite party no. 2 shall be allowed



to talk to, meet and visit her relatives without any let or hindrance, either from the petitioner or his family members.

6. Upon such exercise being completed, as directed above, the Court below shall record a finding in this regard. Once the Court finds that the aforementioned conditions are fulfilled, it shall pass appropriate orders under Section 127 (2) of the Code, subject to the petitioner fulfilling the undertaking given by him in future also.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	

