

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.765 of 2016

In
Miscellaneous Appeal No.358 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Nand Kishore Paswan, son of Late Shree Paswan, resident of village Gandhi Tola, P.S. Manihari, District Katihar

... .. Petitioner/s

Versus

1. Poonam Devi, wife of Nand Kishore Paswan,
2. Pankaj Kumar Paswan, son of Nand Kishore Paswan, both resident of village Gandhi Tola, P.S. Manihari, District Katihar, at present resident of Mohalla Taja Tola, P.S. Katihar, District Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Awadhesh Kumar Mishra with M/S Rita Rai, Sandhya Sharma, Advocates
For the Respondent/s	:	None.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

9 24-09-2019 This revision application is directed against the order dated 22.8.2015 passed by learned Additional Principal Judge, Family Court, Katihar in Misc. Case No. 33 of 2011 whereby and whereunder the petitioner was directed to pay Rs.8000/- each to the opposite parties per month as maintenance and further directed to file a declaration in his department to enter the names of his wife and son in his service book within 30 days from that order.

The ground for assailing the order is that petitioner has filed an application before the court below stating that he has become major, as such he is not entitled to maintenance but



without considering the same learned Family Court has allowed the maintenance in favour of opposite party No.2.

In this case earlier notice was issued to opposite party Nos. 1 and 2 and from service report it appears that opposite party No.1 has received the notice on her behalf and on behalf of her son but none appears on behalf of them.

From the perusal of the impugned order it appears that an application has been filed on behalf of petitioner that opposite party No.2 has become major, as such he is not entitled to any maintenance. It further appears that while considering the application of opposite party No.1 under Section 127 Cr.P.C. for enhancement of maintenance amount, the court below has considered the aforesaid application and also considered the fact that opposite party No.2 is studying in a private school, as such, the court below has allowed the enhancement of maintenance amount in favour of opposite party No.1 and 2 both.

During course of hearing of this revision application, learned counsel for the petitioner confined his argument to the extent that as opposite party No.2 has attained majority, which appears from the evidence of opposite party No.1, he is not entitled to maintenance.

It appears from impugned order that petitioner has not



brought any evidence on the record to show that opposite party No.2 attained majority except the calculating his age on the basis of age mentioned in evidence of opposite party No.1, whereas from the order it appears that opposite party No.2 is still studying in private school.

Considering the facts as stated above, without interfering with the impugned order, this application is disposed of with liberty to the petitioner to file a fresh application before the learned Additional Principal Judge, Family Court taking the plea that opposite party No.2 has become major during pendency of this application and learned Family Court after giving opportunity to both the parties to adduce evidence shall dispose of such application filed by the petitioner, if possible, within a period of six months.

(Vinod Kumar Sinha, J)

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