

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.849 of 2016

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

Rahul Sinha, Son of Sri Dinesh Singh, R/o Village- Dindir P.O. Dindir, P.S Haspura, District Aurangabad.

... .. Petitioner

Versus

Sonalika Kumari, Wife of Rahul Sinha, Daughter of Baijnath Prasad, Resident of Village- Kumrao, P.S Dalsinghsarai, District Samastipur, Address at the house of Husband R/o Village- Dindir, P.O. Dindir, P.S. Haspura, District Aurangabad.

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sanjiv Sharan, Advocate
For the Opposite Party : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 02-12-2023 Heard learned counsel for the petitioner.

2. Despite substituted service of notice, no one has entered appearance on behalf of the sole opposite party.

3. Petitioner in this case is aggrieved by and dissatisfied with the order dated 20.06.2016 passed by learned Principal Judge, Family Court, Samastipur in Maintenance Case No. 45 of 2013 under Section 125 of the Code of Criminal Procedure. By the impugned order, the learned Family Court has assessed the income of the opposite party (the present petitioner) at Rs.25,000/- and accordingly fixed a sum of Rs.5,000/- per month as maintenance payable to the wife (the opposite party). The petitioner has been directed to pay the maintenance amount from the date of filing of the petition i.e.

05.03.2013.

4. Learned counsel for the petitioner submits with reference to the order dated 24.06.2015 passed in Cr. Misc. No. 4689 of 2014, Cr. Misc. No. 40236 of 2014 and Cr. Misc. No. 6654 of 2015 that in fact the petitioner and the opposite party had already settled their dispute amicably and under an agreement arrived at between the parties, the petitioner agreed to pay a sum of Rs.1,50,000/- to the opposite party. After passing of the order dated 24.06.2015, both the parties agreed to get the decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act.

5. It is pointed out from Annexure '3' to the present application that vide order dated 21.06.2016, the Divorce Case No. 81 of 2015 was allowed and the marriage has been resolved with the consent of the parties. It is duly recorded in the order of the divorce case that the petitioner has paid the agreed amount under four different bank drafts.

6. Learned counsel submits that as per agreement, the maintenance case was required to be withdrawn but the same was not withdrawn as a result whereof the present impugned order has been passed.

7. Having heard learned counsel for the petitioner and

on perusal of the records, this Court finds substance in the submissions of learned counsel for the petitioner. The orders of the learned court as contained in Annexure ‘1’ and ‘3’ are supporting the contentions of the petitioner.

8. No one has appeared on behalf of the opposite party to contest it. Under the circumstances, the impugned order passed by learned Principal Judge, Family Court, Samastipur in Maintenance Case No. 45 of 2013 is hereby set aside.

9. This revision application is allowed.

(Rajeev Ranjan Prasad, J)

lekhi/-

U		T	
---	--	---	--