

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67535 of 2024

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

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S. Rizwanul Haque @ Syed Rizwanul Haque Son of Syed Alaul Haque
Resident of Shanti Hari Awasan, Talwar Building, Jamshedpur, P.S.- Bistupur,
Distt.- Jamshedpur (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Saziya Nasir, Wife of Syed Sizwanul Haque, D/O- Late Abujar Nasir
Resident of Road No. 1 harun Nagar, Sector No. 3, Khoja Imli, Anisabad,
P.S.- Phulwari Sharif, District and Town- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Niranjana Prasad Singh
For the Opposite Party/s : Mr. Dinesh Singh

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 30-09-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 19.07.2024 passed by learned Addl. Principal Judge, Family Court, Patna in Maintenance Case No. 21(M)/2010, in which the learned Addl. Principal Judge has rejected the petitions dated 13.06.2024 which was filed for recall of Applicant's Witness Nos. 2 & 3.

3. The petitioner has appeared in person as has been directed by this Court and hand over a draft of Rs. 1 Lakh to the opposite party no. 2 towards dues of maintenance as Rs. 1 Lakh.

4. Learned counsel for the petitioner submits that the petitioner is regularly paying Rs. 10,000/- to the opposite party no. 2. The opposite party no. 2 has appeared in person and submitted that arrears of maintenance is Rs. 95,000/-.



5. Considering the same, petitioner was directed to produce a demand draft of Rs. 1 Lakh, the same is handed over to the opposite party no. 2.

6. The Additional Principal Judge, Family Court, Patna may decide as to whether there was any arrears of maintenance and if it is found that there was arrears of maintenance, the demand draft shall be adjusted against that arrears of maintenance. If the Additional Principal Judge, Patna finds that there is no arrears then the same shall be adjusted towards future maintenance.

7. The present application has been filed on behalf of the petitioner against the order dated 19.07.2024 by which the petition dated 13.06.2024 for recall of Witnesses No. 2 and 3 has rejected.

8. The learned Additional Principal Judge, Family Court while rejecting the application has considered the facts of the case and has held that the recall application dated 29.04.2024 was allowed and one chance was given to the petitioner but the petitioner did not taken any step for further cross-examination of two witnesses.

9. I have considered the submission of the parties. The present maintenance case is pending since 2010. The applicant



witness no. 1 was examined on 2nd May, 2015. The cross-examination was started on 07.05.2015. The further cross-examination continued on 07.06.2016 and thereafter again it continued on 16.06.2017 so the petitioner got more enough time for cross-examining the witness no. 1.

10. Learned counsel for the petitioner has not been able to make out a case for further cross-examination of witnesses no. 1 and 2. It appears that the petitioner is interested in dragging the litigation.

11. In these circumstances, this application is dismissed.

12. The learned Additional Principal Judge, Family Court, Patna is directed to conclude the hearing of maintenance case on day to day basis daily. The Additional Principal Judge, Family Court, Patna will proceed ex-parte against the non-cooperating party.

13. The personal appearance of the petitioner is dispensed with.

(Sandeep Kumar, J)

Ranjeet/-

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