

(2019) 07 PAT CK 0003
In the Patna High Court
Case No : Criminal Revision No. 53 Of 2018

Gajendra Bhagat

APPELLANT

Vs

Reena Devi Wife Of Gajendra Bhagat And Ors

RESPONDENT

Date of Decision : 01-07-2019

Acts Referred:

Family Courts Act, 1984 — Section 19(4)
Code Of Criminal Procedure, 1973 — Section 125

Citation : (2019) 07 PAT CK 0003

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Binod Kumar, Arun Kumar Gupta, Sandeep Kumar Gautam,
Jharkhandi Upadhyay

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and the opposite party.
2. The petitioner has moved the Court under Section 19 (4) of the Family Courts Act, 1984, being aggrieved by the order dated 07.07.2017 passed by the Principal Judge, Family Court, Begusarai in Maintenance Case No. 160M of 2014, under Section 125 of the Code of Criminal Procedure, 1973 by which he has ordered for payment of monthly maintenance of Rs. 10,000/- to the opposite party and her two daughters by the petitioner.
3. Learned counsel for the petitioner submitted that the opposite party, who is his wife has deserted him many years back and ultimately on 22.05.2009, a Panchayati was held under the then Mukhiya of Gram Panchayat Raj, Mathurapur in the district of Khagaria in which the petitioner has paid Rs. 50,000/- each to the opposite party and the two daughters each, the total being Rs. 1,50,000/-, by way of one time final settlement. Learned counsel drew the attention of the Court to the reference in the order impugned which shows that the petitioner had stopped attending the Court since 11.01.2016 and further that the petition filed by the petitioner for recall of the witnesses for cross-examination on 12.06.2015

had not been allowed.

4. Learned counsel for the opposite party submitted that before the Court, there was cogent evidence which has been mentioned in the order impugned with regard to allowing the prayer for payment of monthly maintenance. It was submitted that the Court has also noted that the petitioner being a businessman dealing in foodgrains was earning Rs. 40,000/- per month.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application.

6. First and foremost, the fact that the petitioner is the husband of the opposite party and also father of the two children born out of the wedlock, is not in dispute. In such background the so called Panchayati dated 22.05.2009 becomes suspect on two grounds. The first being that the petitioner residing in the district of Saharsa and the opposite party in Begusarai, the circumstances under which the Panchayati was held by Mukhiya in the Gram Panchayat in the district of Khagaria is difficult to understand. On a query of the Court to both the counsel, there was no answer. However, perusal of the documents itself shows that the petitioner had shown himself to be presently residing there at the time of purchase of the non judicial stamp paper on which such terms of Panchayati has been scribed. This shows that it was at the behest of the petitioner by showing himself that he was presently residing in such Gram Panchayat in the district of Khagaria, a Panchayati being held, clearly reveals that things are not proper. Moreover, the terms are shocking. The petitioner being the father, by offering Rs. 50,000/- each to his two daughters as a one time/lifetime settlement is shocking. It cannot be expected that Rs. 50,000/- would suffice for the entire upkeep of the daughters as also take care of their marriage. The petitioner cannot deny the responsibility as a father with regard to his daughters. Secondly, the contention with regard to the petitioner not attending Court since 11.01.2016 is immaterial for already the witnesses had been examined and their deposition was on record. The other point raised on behalf of the petitioner that he had filed an application for recall of the witnesses of opposite party for cross-examination on 12.06.2015 is being noticed only for the sake of rejecting the same. The lack of merit in such submission would be clear from the fact that if at all, the application for recall of the witnesses from the side of the opposite party for cross-examination was not allowed, the petitioner was required to take steps with regard to such non recall of the witnesses before the appropriate forum and not having done so after passing of the order impugned, which is more than two years after filing of such application for recall on 12.06.2015, it is no more open to the petitioner to agitate the same before this Court. It is also not clear as to under what circumstances such petition for recall of the witnesses of the opposite party no. 2 had been filed. On a query of the Court with regard to what was the actual position, no answer has been forthcoming from the part of learned counsel for the petitioner.

7. Thus, taking an overall view in the matter and for reasons discussed above, the Court finds that monthly maintenance of Rs. 10,000/- for the opposite party and her two daughters by the petitioner is fully justified and reasonable.

8. Accordingly, the application stands dismissed.

9. The Lower Court Records be returned forthwith.