

(2009) 07 PAT CK 0048
In the Patna High Court

Mohammad Quamruzzaman @ Quamruzzama	APPELLANT
Vs	
State of Bihar and Samru Nisan @ Samrunnisan	RESPONDENT

Date of Decision : 29-07-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2009) 07 PAT CK 0048

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mandhata Singh, J.—By the impugned order wife (opposite party No. 2 here) has been allowed for realization of maintenance at the rate of Rs. 500/- per month from the year 1977 to 1992.

2. In the instant case, petitioner married another girl in 1992. According to the petitioner, he divorced the applicant-opposite party No. 2 in the year 1990. Divorce is accepted by the family court but in the year 1992. After hearing the parties learned Principal Judge has allowed maintenance in favour of opposite party No. 2 from the year 1977 to 1992.

3. Now the question is whether maintenance from 1977 to 1992 can be awarded on the petition filed in the year 2001.

4. On the point learned Counsel for the petitioner referred Sub-section (2) of Section 125 of the Code of Criminal Procedure which runs as follows:

Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

5. Here petition for maintenance is filed in the year 2001 itself. It is worthless to mention here that opposite party No. 2 has an earning son to look after her as it

has come he was sending Rs. 1000/- to her. I am fully in agreement with the submission made on behalf of learned Counsel for the petitioner that opposite party No. 2 is not entitled for maintenance from 1977 to 1992 on the petition filed on her behalf in the year 2001.

6. With the aforesaid observation this revision petition is allowed. The order dated 7.10.2005 passed by the learned Principal Judge, Family Court, Darbhanga, is set aside.