

(2016) 06 JH CK 0019
In the Jharkhand High Court
Case No : Cr. Revision No. 1174 of 2015

Rakesh Talwar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 23-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2016) 4 JLJR 657

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. Nagmani Tiwari, Advocate, for the Opposite Party No. 2; Mr. Mukesh Kumar, Advocate, for the State; Mr. Pratyush Lala, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Rongon Mukhopadhyay, J. - Heard Mr. Pratyush Lala, learned counsel appearing for the petitioner and Mr. Mukesh Kumar, learned A.P.P. for the State as well as Mr. Nagmani Tiwari, "learned counsel appearing for the opposite party No. 2.

2. In this application petitioner has challenged the impugned judgment dated 5.8.2015 passed by the learned Principal Judge, Family Court, Dhanbad in connection with Maintenance Petition No. 355 of 2014 wherein the application filed by the opposite party No. 2. under Section 125 Cr.P.C., has been allowed and the monthly maintenance of Rs. 10,000/- to the opposite party No. 2 and Rs. 2,000/- per month to her minor son has been awarded.

3. It has been submitted by the learned counsel for the petitioner that the learned court below has not properly appreciated the income of the petitioner and has passed the quantum of maintenance on a very high monthly figure. Learned counsel for the petitioner further submits that petitioner is ready to transfer his medical shop in the name of opposite party No. 2.

4. Mr. Nagmani Tiwari, learned counsel for the opposite party No. 2 has

supported the impugned judgment and has stated that the husband has sufficient means to make payment of maintenance as has been awarded by the learned Court below and there is no error so as to cause interference in the said impugned judgment.

5. The impugned judgment dated 5.8.2015 reveals that there has been no discussion on the part of the learned Court below with respect to the income of the petitioner. The petitioner had stated in his evidence that he earns an amount of Rs. 4,000/- per month from his medical shop.

6. Although it has been stated in the judgment 5.8.2015 that the evidence produced has sufficiently proved the income of the petitioner but no specific finding has been recorded in that perspective.

7. In such circumstances, therefore, the impugned Judgment dated 5.8.2015 is quashed and set aside and the matter is remanded back to the learned Principal Judge, Dhanbad who shall pass necessary order based on the materials available on record after hearing the parties and shall restrict himself only to the quantum of maintenance to be awarded to the opposite party No. 2 and her minor son.

8. This application stands disposed of.