

Binod Sitha Vs. Suna Dei

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Court : Orissa

Decided On : Sep-26-1985

Reported in : 60(1985)CLT422; 1985(II)OLR591

Judge : B.K. Behera, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397(2), 397(3) and 482

Appeal No. : Criminal Misc. Case No. 160 of 1985

Appellant : Binod Sitha

Respondent : Suna Dei

Advocate for Def. : P.K. Dhal, D. Nayak, S.P. Dhal, R. Ray, T.K. Mohapatra and B. Puan

Advocate for Pet/Ap. : G. Panda, P.K. Nanda, P.K. Parida and A.R. Dash

Disposition : Case dismissed

Judgement :

B.K. Behera, J.

1. Upon hearing the learned counsel for both the sides, I do not find any prima facie case for interference in exercise of the inherent jurisdiction of this Court

under Section 482 of the Code of Criminal Procedure by reducing the quantum of maintenance granted to the opposite party in a proceeding under Section 125 of the Code of Criminal Procedure, maintained by the Court of revision, while dismissing the revision presented by the present petitioner, as this is purely a question of fact and the quantum has been fixed by the first Court and the revisional Court after consideration of the materials placed before them. Section 397(3) of the Code of Criminal Procedure provides a bar for a second revision by the same person and this provision should not be allowed to be avoided by taking resort to Section 482. While it is true that exercise of inherent jurisdiction as provided in Section 482 is not controlled by the provisions made in Sections 397(2) or 397(3) of the Code of Criminal Procedure, it has been a settled principle that inherent jurisdiction is to be exercised in rare and exceptional cases in the interest of justice or to prevent an abuse of the process of the Court. In my view, it is not a fit case in which this Court should interfere with the quantum of maintenance in exercise of the inherent jurisdiction of this Court.

2. The Criminal Miscellaneous Case is accordingly dismissed.

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