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Mainak Roy Vs. The State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Sep-03-2015

Appellant : Mainak Roy

Respondent : The State of Jharkhand and Anr

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI ---- Cr. Revision NO.1185 of 2014 ------ Mainak Roy, S/o Sri Nirmal Roy, r/o 16/1, Gour Mondal Road, Asansol-1, Hottan Road,P.O.P.S Asansol, Dist-Burdwan(W.B.). ... Petitioner. Versus 1. State of Jharkhand 2. Smt. Supriya Roy, W/o Sri Mainak Roy, Bibhuti Apartment, Lobi Circular Road, P.O.P.S. and Dist-Dhanbad. .....Opp.Parties. ------ CORAM : HON'BLE MR. JUSTICE AMITAV K. GUPTA ------ For the Petitioner : Mr.S.K.Laik, Advocate. For the State : APP. For O.P.No.2 : Mr.Rupesh Singh, Advocate. ------ 06/03.09.2015 This application is directed against the order dated 22.09.2014 passed by the learned Principal Judge, Family Court, Dhanbad in Maintenance Case no.231/2010 whereby the petitioner was directed to pay maintenance to the O.P.-wife @ Rs.8000/- and the minor son @ Rs.3000/- p.m. respectively till he attains the age of majority.

2. Learned counsel for the petitioner has submitted that it would be evident that the maintenance case was filed in the year 2010 whereas evidence on record shows that O.P.-wife was residing with the petitioner till 07.07.2014 in terms of the compromise. The petitioner was and is always ready to abide by the terms of compromise and undertaking. The O.P./wife had also executed a 'bandh

patra'(undertaking) to pay due respect and regard to the petitioner and her in-laws. That in fact the O.P./wife had herself detracted from the terms of compromise due to her peevish and quarrelsome nature. This can be evidenced from the fact that the neighbours and people of the locality informed in writing to the Officer-in-charge, Asansol P.S., regarding unpredictable and unruly behaviour of the O.P.-wife, who showed utter disrespect to the petitioner and her in-laws. In fact she had threatened and subjected the petitioner and his parents to mental torture. It is submitted that Annexure-10 is the Income Tax returns for the year 2013-2014 wherein the actual income of the petitioner has been assessed at Rs.1,29,940/- but the learned Family Judge, Dhanbad has misinterpreted the statement of the petitioner wherein he has stated that the income was Rs.20,000-30,000/- p.m. Such statement was made with respect to the income of the firm of which the petitioner is one of the partner along with his father and another person. Thus in view of the income as assessed in the Income Tax return it is apparent that the learned Judge has erred in law by awarding excessive and exorbitant compensation of Rs.11,000/-. It is argued that O.P./ wife had left the company of 2. the petitioner without any sufficient cause hence she is not entitled to any maintenance. On the above ground it is contended that the impugned order is fit to be set aside.

3. Learned counsel appearing on behalf of O.P.-wife has submitted that there is no illegality, impropriety or irregularity in the impugned order. It is urged that it is true that maintenance case was filed in the year 2010 and the O.P. had resided with the petitioner till July,2014. That earlier the O.P./wife had filed a complaint case under Section 498A IPC and in the said case she stated in para 8 of her deposition that on 5th, 6th and 7th April, 2010 the petitioner had brutally assaulted her whereafter she made phone calls to her father. That her uncle had tried to resolve the dispute but the petitioner's adamant and aggressive attitude was the cause for non-settlement of the dispute and she was driven out of the house. That in the case under Section498A warrant of arrest was issued against the petitioner. That the petitioner realising that he would be arrested and be put behind the bars approached the O.P./wife with terms of compromise, who agreed to the compromise under the belief that petitioner has realisesd his mistake and good sense had dawned upon him. However, after securing the bail the petitioner

started maltreating the O.P./wife who tolerated the same with the hope that things would normalise and she would be able to lead a happy conjugal life and she continued to reside with the petitioner but his behaviour and attitude towards her worsened over the years. That the petitioner had filed divorce application which is admitted by him in his deposition. The petitioner has admitted in his deposition that he earns Rs.20,000-30,000/- p.m. from the partnership business. It is argued that O.P./wife has to provide for the educational expenses and the necessary daily needs of her minor son. Learned counsel has relied on a decision reported in (2015) 5 SCC705and submitted that Hon'ble Supreme Court has held that as long as the wife is held entitled to grant of maintenance under Section 125 Cr.P.C., it has to be adequate so that she can live with the same dignity and comfort which would have been available to her in her matrimonial home. That the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. That when the woman leaves the matrimonial home she is deprived of many a comfort. Sometimes her faith in life reduces. Sometimes, she feels she has lost the tenderest friend. On the above premise it is urged that the present application is devoid of merit and there is no illegality or impropriety in the impugned order.

3. Heard. Perused the impugned order, the depositions and Annexures of the application. Admittedly O.P/wife had also given an undertaking before the Mediation Centre, Dhanbad(Annexure-5) whereby she undertook to give proper respect to her in-laws and husband. The petitioner had also undertaken to take proper care of O.P./wife. Evidently the compromise was entered into by O.P./wife and the petitioner in the case filed under Section 498A against the petitioner. This shows that O.P.-wife wanted to resume her conjugal life. Had she not been willing to reside with the petitioner she would not have entered into compromise. On the basis of the compromise the petitioner was granted bail. The Annexures disclose that while she was residing with the petitioner he had filed a Matrimonial Suit in March for divorce against O.P./wife. The filing of the divorce suit reflects on the conduct of the petitioner rather the filing of the divorce petition behind the back of the O.P./wife during the period of her stay with the petitioner gives sufficient cause and reasons for O.P./wife to reside separately and this has been succinctly dealt and discussed by the learned lower court. From the deposition of the petitioner it is

clear that he earns Rs.20,000-30,000/- p.m. as income from the partnership firm and the word and language used cannot be interpreted to mean that the said income is the income of the partnership firm. The admission by the petitioner of his actual income carries more weight than the Income Tax returns.

4. It is well settled that the dominant and primary object of Section 125 Cr.P.C is to ensure social justice and to provide immediate relief to the dependent wife, child or infirm or old parents who do not have sufficient means to maintain themselves. Section 125 Cr.P.C. ensures that a person who is legally and morally bound to maintain his dependents cannot shirk from his responsibility on bald excuse of not having sufficient income or is jobless. Such pleas cannot be entertained and the dependents cannot be forced to live a life of vagrancy or destitution.

5. In the facts and circumstances of the case the awarded compensation is reasonable and justified hence, this Court is of the considered opinion that the impugned order does not suffer from any illegality, impropriety or perversity warranting any interference by this Court.

6. In the result, the revision is hereby dismissed. (Amitav K. Gupta, J.) Biswas/-

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