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(2006) 01 JH CK 0020

Jharkhand High Court

Case No: Criminal Revision No. 336 of 2005

Baleshwar Mandal APPELLANT

Vs

Anup Mandal RESPONDENT

Date of Decision: Jan. 16, 2006

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 125

Citation: (2006) 2 DMC 265

Hon'ble Judges: N. Dhinakar, C.J

Bench: Single Bench

Advocate: K. Purnima, for the Appellant; Assistant Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

N. Dhinakar, C.J.
Baleshwar Mandal. the petitioner herein, was directed to pay a sum of Rs. 500 p.m. as maintenance u/s 125, Cr. P.C. to his illegitimate child. The petitioner is aggrieved by the said order of the Family Court.

2. Anup Mandal filed a petition through his mother, Malti Devi in the Family Court, Dumka. In the said petition it has been alleged that the petitioner in this revision committed rape on Malti Devi, who has been examined as P.W. 4, on account of which she became pregnant and delivered a child who is O.P. No. 1. The Family Court considering the evidence placed before it directed the petitioner, Baleshwar Mandal to pay a sum of Rs. 500 as maintenance to his illegitimate child u/s 125, Cr. P.C. and directed that the said amount should be paid from the date of the application.

3. Learned Counsel appearing for the petitioner strenuously contends that P.W. 4 gave two different versions one before the Criminal Court and the other before the

Family Court and according to the Counsel, in the First Information Report, of which a criminal case was lodged against the petitioner, P.W. 4 has stated that after the rape was committed she continued to have relationship with the petitioner but gave a different version before the Family Court by coming out with a version that the child was born on account of rape committed upon her by the petitioner. Therefore, Counsel contends that the evidence of P.W. 4 ought not to have accepted by the Family Court for awarding maintenance to sole O.P., Anup Mandal who is the illegitimate child of the petitioner.

4. 1 am unable to accept the said contention since there is no material placed before the Family Court for arriving at a conclusion that the P.W. 4 gave different version-one before the Criminal Court and the other before the Family Court and in the absence of any evidence this Court cannot go into the questions of fact on the basis of oral submissions made by the Counsel before the Revisional Forum. On going through the order of the Family Court 1 find that there is no illegality or irregularity in the order.

5. The revision is, therefore, dismissed.