

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1156 of 2013

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1. Sheo Nath Singh Yadav, Son of Late Bhagwat Singh,
Resident of Village- Bodh Chatar, P.O.- Derhgaon, P.S.-
Dawath, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Daulato Devi, Wife of Sri Sheo Nath Singh Yadav,
Resident of Village- Bodh Chatar, P.O.- Derhgaon, P.S.-
Dawath, District- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal, Adv.

For the O.P. No.2 : Mr. Jitendra Pd. Singh, Adv.

For the State : Mr. Md. Fahimuddin (App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

11 14-12-2016

Heard the parties.

The petitioner is aggrieved by an order, dated
26.09.2013, passed by learned Principal Judge, Family
Court, Sasaram at Rohtas, in Maintenance Case No. 10 of
2005, whereby, the learned court below has directed
payment of a sum of Rs. 2,000/- per month as
maintenance to opposite party No. 2 from the date of filing



of the petition. The ground which is being taken to assail the impugned order is that opposite party No. 2 is not legally married wife of the petitioner.

Learned counsel, appearing on behalf of the petitioner, has submitted that opposite party No. 2 was admittedly married to one Ram Nath Singh Yadav, the elder brother of the petitioner, who died six years after marriage with opposite party No. 2.

It transpires that the learned court below has taken into account the evidence adduced in a proceeding under Section 125 of the Code of Criminal Procedure, to the effect that a case, under Section 498A of Indian Penal Code, was filed by opposite party No. 2 in the year 2001, which had given rise to Dawath P.S. Case No. 105 of 2001 in which a compromise petition was filed. In the said compromise petition, the petitioner appears to have admitted the relationship of husband and wife between him and opposite party No. 2. He also admitted that he married to one Sumitra Devi also. It further transpires that opposite party No. 2, after certain dispute had arisen, had filed an application to cancel the bail granted to the petitioner, in connection with said Dawath P.S. Case No. 105 of 2001, since he was not honouring the undertaking given by him. It appears that again the petitioner



admitted that opposite party No. 2 is his wife.

Learned counsel, appearing on behalf of opposite party No. 2, has submitted that the petitioner has four (4) *bighas* of land and he has a dairy business also at Patrattu, in the State of Jharkhand, and, therefore, the amount of maintenance, awarded by the learned court below, is inadequate. In reply, learned counsel, appearing on behalf of the petitioner, has submitted that the petitioner is not the only owner of the said land, measuring four (4) *bighas*, rather the same belongs to the entire family and opposite party No. 2 herself is entitled for her share in the said property.

Learned counsel, appearing on behalf of opposite party No. 2, has also placed reliance on a Supreme Court decision, in case of ***Chanmuniya Vs. Virendra Kumar Singh Kushwaha & Anr.***, reported in ***(2011) 1 SCC 141***, to submit that there being enough evidence to establish long co-habitation, the petitioner is entitled for maintenance under Section 125 of the Code of Criminal Procedure.

I do not find any merit in this application. The petitioner is raising unnecessary technical pleas after having admitted before the courts below that he and opposite party No. 2 have remained as husband and wife.



I do not find any reason to interfere with the order impugned.

I, accordingly, intended to enhance the amount of maintenance while rejecting the present revision application. However, I am not doing so for the present. Opposite party No. 2 shall be at liberty to apply for enhancement of the maintenance amount in accordance with law before the learned court below.

This application is dismissed but with the observation as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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