

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.124 of 2015

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1. Shobha Devi Wife of Mahesh Yadav resident of village - Bhawar Bigha, Police Station - Parasbigha in the district of Jehanabad At Present of resident of village - Irki Tola Hasaura, Police Station - Jehanabad in the district of Jehanabad

.... Petitioner/s

Versus

1. Mahesh Yadav Son of Late Jhaman Yadav resident of village - Bhawar Bigha, Police Station Parasbigha in the district of Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 07-03-2017 Heard learned counsel for the parties.

2. By the impugned order, dated 17.11.2014, learned Principal Judge, Family Court, Jehanabad has rejected petition filed by the petitioner under Section 125 of the Code of Criminal Procedure, 1973,(hereinafter referred to as the **Code**) wherein she claimed that Opposite party is her husband and he had neglected her and refused to maintain her.

3. Learned Court below has concluded in his judgment and order, dated 17.11.2014 that the petitioner could not, *prima facie*, establish that the petitioner was legally married wife of Opposite party.

4. Learned counsel for the petitioner, assailing the



impugned order has submitted that there were at least two documents brought on record before the Court below to establish that the petitioner is legally married wife of Opposite party, namely, the *Voter Identity Card* and application for bail filed on behalf of the Opposite party in the Court of learned Chief Judicial Magistrate, Jehanabad. In the *Voter Identity Card*, name of the husband of the petitioner has been mentioned as Mahesh Yadav. In the bail application filed on behalf of the Opposite party, the Opposite party is said to have accepted the position that the petitioner is his wife.

5. I have perused the impugned order. The Court below has considered the document, (Exhibit-2), i.e., the bail application, which was filed on behalf of the Opposite party before the Court below and has refused to accept it as conclusive piece of evidence to establish that the petitioner is legally married wife of Opposite party mainly for the reason that the said bail application was not signed by the Opposite party.

6. I do not find the reason assigned by the Court below to be erroneous. In the *Voter Identity Card*, the year of the birth of the petitioner has been found to be mentioned as 1980. It is the case of the petitioner that she got married with Opposite party in the year 1988. Accordingly, the Court below has refused to accept



the petitioner's plea of her marriage with the Opposite party on the basis of the said document.

7. Learned counsel appearing on behalf of the petitioner has submitted that some witnesses supported the fact that the petitioner and Opposite party are wife and husband and they are living together. However, in a proceeding under Section 125 of the Code, learned Court below has found the claim of the petitioner to be wife of Opposite party, is not *prima facie*, acceptable. The said conclusion cannot be said to be palpably incorrect requiring interference by this Court in revisional jurisdiction.

8. I do not find any merit in this application.

9. It will be open to the petitioner to get her status as wife of the Opposite party declared in appropriate proceeding. The conclusion arrived at by the Court below on this point cannot be said to be final.

10. This application is disposed of with the observation as above.

(Chakradhari Sharan Singh, J)

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