

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.43 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Nujhat Parween @ Nujhat Bano W/o Md. Junu Alam @ Md. Zabed @ Md. Azbed Alam, R/o Village- Jabar, P.S.- Baisi, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Junu Alam S/o Md. Jawed Alam @ Md. Zabed , R/o Village- Rajweli, P.S.- Dagarrua, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-07-2019

None appear for the parties.

2. Learned APP for the State has assisted the Court.

2. On 04.07.2019, the Court had recorded a detailed

order which reads as under:

“On the merits of the matter, the Court finds that the order impugned rejecting the prayer for grant of maintenance to the petitioner has been passed in a highly casual manner without any basis, either in law or on facts. It appears that the Court has totally misguided itself with regard to giving an opinion that the signature of the opposite party no. 2, on the Nikahnama was not his after comparing the same with the deposition. The Court expresses its surprise and shock at such finding. To this Court, even from the naked eye, there may be some variations, which are very natural in the course of human beings putting their signature on any document. No two specimens can be 100% identical. Thus, within



acceptable human variations, in the tentative view of the Court, the difference is not so much so as to give a categorical finding that the signatures on the Nikahnama as compared to that on the deposition are not similar. Moreover, if at all the Court had some genuine and bona fide misgivings with regard to the signature, the only recourse left was to get the matter examined by a handwriting expert, where the opposite party no. 2 would have had to give his further signature to be compared by such expert along with the signatures on the Nikahnama and the deposition. Not doing so and giving a finding that they do not appear to be the same and based on such finding reaching to a conclusion that the petitioner has not proved her marriage to the opposite party no. 2, in the considered opinion of the Court, cannot be sustained.

At this juncture, learned counsel for the opposite party no. 2 submitted that the matter be adjourned for a week so that he may come back with further instructions as to what the stand of the opposite party no. 2 proposes to take before the Court.

In view thereof, by way of last indulgence, the matter be listed on 18th July, 2019.

The Court would also indicate that the complaint/FIR by the opposite party no. 2 against the petitioner and her relatives, also in the tentative view of the Court, appears to be totally mala fide.

However, the Court would take a final view in the matter in the totality depending on the response to the opposite party no. 2.”

3. In view of what has already been recorded on 04.07.2019, the Court would not reiterate the position. Thus, when nothing substantive has been brought on record to dispel the view of the Court with regard to the finding recorded by the Court below of the signatures of the opposite party no. 2 on the



Nikahnama and the deposition, the Court finds that the impugned order of the Court below cannot be sustained and requires interference.

4. Accordingly, the application is allowed.

5. The order dated 13.11.2017 passed in Maintenance Case No. 280 of 2012 by the Principal Judge, Family Court, Purnea is set aside. The matter is remanded for fresh consideration on merits, in accordance with law. The Principal Judge, Family Court, Purnea is directed to ensure that matters are taken to their logical conclusion, expeditiously, and latest within a period of nine months from the date of communication of the present order.

(Ahsanuddin Amanullah, J)

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