

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.101 of 2016**

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

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Rinki Devi Wife of Pappu Kumar, daughter of Surendra Yadav, resident of Village Gangapur, Ward no. 9, P.S Murliganj, District Madhepura.

... .. Petitioner/s

Versus

1. State of Bihar
2. Pappu Kumar Son of Budhdeo Yadav, resident of Village- Gangapur, Ward No.- 9, P.S. Murliganj, District- Madhepura.

... .. Respondent/s

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**Appearance :**

|                      |   |                               |
|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mr. Shekhar Kumar Singh, Adv. |
| For the State        | : | Mr. Ajit Kumar, APP           |
| For the O.P. No.2    | : | Mr. Durgesh Kumar, Adv.       |

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

6      22-04-2019                      Heard the parties.

It appears from perusal of the record that the petitioner has challenged the order dated 11.03.2015 passed by the learned Principal Judge, Family Court, Madhepura in Misc. Maintenance Case No. 51 of 2013 filed by the petitioner, which has been rejected and the petitioner has filed an application under Section 125 of the Code of Criminal Procedure for her maintenance, which has been dismissed by the Family Court on the ground that petitioner is unable to prove her marriage with opposite party no.2.

The aforesaid order has been challenged by the petitioner on the ground that even the evidence of opposite party



no.2 disclosed that he has been kidnapped and married with the petitioner and the witnesses have also stated so, but in spite of that and there is nothing on the record to show that marriage of the petitioner with opposite party no.2 has been declared as null and void, in spite of that a finding has been given by the learned Family Court that the petitioner has failed to prove the marriage. It further appears from the petition that opposite party no.2 has also filed a Matrimonial Suit No. 24 of 2012 against the petitioner for declaring nullity of marriage and the divorce under Sections 11 and 12 of the Hindu Marriage Act and the same was also dismissed as ex-parte and as such, the finding of the learned Family Court that petitioner failed to prove the factum of marriage is against the materials available on the record.

Heard learned counsel for the opposite party no.2 who has defended the order stating that the marriage of the petitioner was under pressure and the petitioner has filed a case for declaring the marriage as null and void and he has also filed a criminal case of kidnapping against petitioner and his family members and that is still pending, however, the petitioner has failed to satisfy as to whether the marriage was declared null and void by any competent court.



In view of the above facts and circumstances of the case, in my opinion, the impugned order does not appears to be sustainable on the ground of non application of mind by the learned Family Court and as such the impugned order dated 11.03.2015 is set-aside and the matter is remitted back to the court below for considering it afresh after giving notice to both the parties and decide it afresh within a period of nine months.

It is needless to say that both the parties shall cooperate in disposal of the same.

**(Vinod Kumar Sinha, J)**

Amjad/SKSuman.

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