

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.401 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District-

Vikash Sharma Son of Ram Sagar Sharma Resident of Village - Prabodhi,
Narendra, P.S.- Sarai, Distt.- Vaishali.

... .. Petitioner

Versus

BABY DEVI Wife of Vikash Sharma, D/o Nurupam Sharma, At Present R/o
Naihari, Resident of Village - Lawapur Mahnar, P.S.- Mahnar, Distt- Vaishali.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 18-10-2022 Heard learned counsel for the petitioner.

On the last date, considering the submission of learned counsel for the petitioner that the applicant-wife has been married to one Dinesh Sharma, son of Prabhu Sharma, resident of Village- Lodipur Chak Pahar, P.S. Sahdei Bujurg, District- Vaishali, this Court had called upon the Superintendent of Police, Vaishali to submit a report after conducting inquiry as to whether the opposite party has married to the said Dinesh Sharma.

The report has been received from the S.P., Vaishali which is kept at Flag 'B'. The report says that Dinesh Sharma was found living with his wife Sararswati Kumari with whom he has got five children. The allegation that Baby Devi has married to said Dinesh Sharma could not be substantiated in course



of inquiry.

In view of the aforesaid report of the S.P., Vaishali, this Court finds no reason to proceed further with this matter. Although the opposite party has not appeared in this case but this Court having noticed that by the impugned order, only a sum of Rs. 3,000/- per month has been allowed to the opposite party towards her maintenance which is a meager sum and culminates in hardly Rs. 100/- per day with whom the opposite party has to live, this Court is not inclined to interfere with the impugned order. In the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**, the Hon'ble Supreme Court in paragraph '10' has observed as under:-

“10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In *Chaturbhuj v. Sita Bai reported in (2008) 2 SCC 316*, it has been held that



the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

If the petitioner still wants to pursue his stand that his wife has remarried to Dinesh Sharma, it is open for him to get it adjudicated in a duly constituted application in appropriate jurisdiction.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

