

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.521 of 2017

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

Chandu Paswan son of Late Umesh Paswan, resident of Mohalla- Prem Nagar, Anathalay Road, Police Station- Nagar, Katihar, District- Katihar.

... .. Petitioner

Versus

1. State Of Bihar
2. Meena Kumari @ Devi, D/o Sakaldeo Paswan, wife of Chandu Paswan, resident of Mohalla- Prem Nagar, Anathalay Road, Police Station- Nagar, Katihar, District- Katihar.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Sunil Prasad Singh, Advocate
For the State : Mr.Akhileshwar Dayal,APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-12-2022 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned APP for the State.

Petitioner in this case is aggrieved by and dissatisfied with the order dated 09.02.2017 passed in Maintenance Case no. 223 of 2013 on an application under Section 125 Cr.P.C.

Learned counsel for the petitioner has assailed the impugned order on the ground that the learned court below has decided the maintenance case without recording a finding of fact that the O.P. no. 2 was legally married wife of the petitioner. It is further submitted that there is also no finding that the son of the O.P. no. 2 took birth out of the alleged wedlock between the petitioner and the O.P. no. 2.



Learned counsel submits that in the learned court below, the O.P.-petitioner had appeared and filed a show cause saying that the application is not maintainable. He also denied his marriage with O.P. No. 2 and the birth of the child out of the said wedlock.

This Court has gone through the impugned order as well as the pleadings available on the record. In the entire revision application, there is no positive averment of the petitioner that the O.P. no. 2 is not his legally wedded wife or the minor son has not taken birth out of the said wedlock. The grounds and the pleadings on the record, if duly understood would result in just casting a doubt on the marriage without there being any material to support the same. No reason has been offered by the petitioner to show as to why after putting appearance in the learned family court, he did not appear to participate in course of evidence and hearing. If there is no plausible reason showing as to why he did not cross-examine the applicant who dared to come in the dock as applicant witness no. 3. The conduct of the petitioner writes large from the fact that he did not come forward to testify himself.

From the materials on record, this Court finds that there is a definite finding of the learned Principal Judge, Family



Court that the applicant-wife is a legally wedded wife of the petitioner and she had given birth to a child out of the said wedlock. She has been found entitled for her own maintenance and the maintenance of the minor child.

In these circumstances, the amount of maintenance awarded to the applicant-wife and the minor son and the lump sum amount awarded towards cost of litigation needs no interference.

This revision application is dismissed.

The learned Principal Judge, Family Court, Katihar shall proceed to enforce the impugned judgment/order as expeditiously as possible.

Since the learned Principal Judge, Family Court has already awarded cost of litigation, in the present case this Court is not imposing any cost.

This revision application is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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