

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.293 of 2020

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

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Rabindra Prasad Yadav, Son of Late Bhagwan Prasad Yadav, Resident of Village - Khiradih, P.S.- Parbatta, Distt.- Khagaria, Presently Working at hawai Adda (Air Port), P.S.- As Constable, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjula Devi, D/o Medo Prasad Yadav, Resident of Village - Bagri, P.S.- Kharik, Dist.- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jai Shankar Prasad
For the Respondent/s	:	Mr. Nityanand

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 3 28-02-2023 This revision application has been filed against order dated 03.02.2020 passed in Miscellaneous (Maintenance) Case No. 12 of 2010 by the Principal Judge, Family Court, Bhagalpur whereby, the learned Principal Judge has directed the petitioner to pay Rs. 5,000/- (five thousand) per month from the date of passing of the order to the opposite party No. 2 (wife of the petitioner), as maintenance allowance.

It is submitted by learned counsel for the petitioner that the impugned order of maintenance has been passed without appreciating the fact that opposite party No. 2 is not a legally wedded wife of the petitioner. He next submits that under Section 125 of the Code of Criminal Procedure, learned



Court below could not even decide the legality and validity of the marriage of the petitioner and declare a person as his wife.

Section 125 of the Code of Criminal Procedure provides a summary remedy. It does not finally determine that rights and obligation of the parties thereto. The powers of the criminal courts under Chapter IX are subject to any final adjudication which may be made by a civil court. When substantial issues have been raised by the parties, appropriate remedy lies in the civil court. Hence, a decision of a criminal court that there was a marriage between the parties and that it was a valid marriage will not operate as *res judicata* or even be decisive in any civil proceeding between the parties for determining those questions. The civil court will determine validity or otherwise of the marriage on the basis of evidence led by the parties without being influenced in any manner by a finding recorded by a criminal court in maintenance proceedings.

Reference may be made to the case of **Chanmuniya Vs. Virender Kumar Singh Kushwaha, reported in JT 2010 (11) SC 132** passed by the Hon'ble Supreme Court wherein it has been observed that construing the term 'wife' broad and expansive interpretation should be given to term 'wife' to



include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time, strict proof of marriage should not be a pre-condition for maintenance, as has been held in this case.

Perusal of the impugned order demonstrates that after taking into consideration the evidence on record, the Court below has passed the order of maintenance.

I have carefully perused the impugned order. The monthly maintenance allowance of Rs. 5,000/- (five thousand) per month to the opposite party No. 2 (wife of the petitioner) in this age of high inflation cannot be said to be excessive or onerous.

In such circumstances, I am not inclined to interfere with the impugned order in the background of facts which have been mentioned in the impugned order.

I do not find any merit in this application. This criminal revision application is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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