

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.538 of 2018

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

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Dipu Kumar @ Tipu Mandal, S/o Karelal Mandal, R/o Vill.- Pokri, P.S.-
Haveli Kharagpur, District- Munger.

... .. Petitioner/s

Versus

1. State of Bihar
2. Khusboo Devi, W/o Dipu Kumar @ Tipu Mandal, D/o Dasu Das, R/o Vill.-
Pokri, P.S.- Haveli Kharagpur, District- Munger.

... .. Opposite Parties

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Appearance :

For the Petitioner/s	:	Ms. Shama Sinha, Advocate
For the State	:	Mr. Pramod Kumar Pandey, A.P.P.
For the Opposite Party	:	Mr. Ram Sevak Choudhary, Advocate

No. 2

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 28-02-2023 This revision application has been filed against order dated 23.03.2018 passed in Maintenance Case No. 257 of 2013 by the Principal Judge, Family Court, Munger whereby, the learned Principal Judge has directed the petitioner to pay Rs. 2,000/- (two thousand) per month from the date of filing of the application under Section 125 Cr.P.C. to the opposite party No. 2 (wife of the petitioner), as maintenance allowance.

It is submitted by learned counsel for the petitioner that opposite party No. 2 is not a legally wedded wife of the petitioner. She next submits that from the deposition of opposite party No. 2, it is apparent that the so-called marriage was not performed in accordance with the Hindu Marriage Act, 1955 as



no ceremony of *Sapatpadi* took place and at the alleged time of marriage opposite party No. 2 was minor and as such, she is not entitled to maintenance amount. In support of her statement, learned counsel for the petitioner has relied upon **Laxmi Devi Vs. Satya Narayan and Ors.** passed by Hon'ble Supreme Court in Criminal Appeal No. 314 of 1981 vide order dated 09.08.1994.

Case cited by the learned counsel for the petitioner is not applicable as it has been passed in a criminal case registered under Section 494 of the Indian Penal Code and not in a maintenance case.

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. 2,000/- (two thousand) per month to 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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