

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.221 of 2023

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

Md. Firoz @ Md. Firoz Alam S/O Md. Wakil Mansoori R/O Village- Rampur Kesho (DAUD Nagar), P.S- Sheyampur Bhathan, Distt.- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Afrida Khatoon W/O Md. Firoz R/O Village- Rampur Kesho(Daud Nagar), P.S- Sheyampur Bhathan. District- Sheohar. Presently D/O Md. Shakoor Mansoori, R/O Village- Nayagaon, P.S- Sheyampur Bhathan, Distt.- Sheohar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Fakhruddin Ali Ahmad, Adv.
For the Respondent/s : Mr.Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

6 28-08-2024 Heard learned counsel for the petitioner.

2. This revision petition has been preferred by the petitioner (husband) being aggrieved with the judgment dated 13.12.2022 passed by the Principal Judge, Family Court, Sheohar in Maintenance Case No. 06/2022 whereby the learned Family Court allowed the application filed under Section 125 of Cr.P.C. by the O.P. No. 2 (wife) and directed the petitioner to pay a monthly maintenance of Rs. 4,000/- to the O.P. No. 2 (wife) from the date of submission of maintenance application i.e. 29.04.2022.

3. Undisputedly, the O.P. No. 2 is the legally wedded wife of the petitioner and she is residing separately from the



petitioner.

4. Perusal of the impugned order shows that it was pleaded by the petitioner herein that the O.P. No. 2 (wife) got re-married with one Md. Niyaz Alam and is living an adulterous life. To establish this fact before the learned Family Court, the applicant-petitioner produced a *Nikahnama* i.e. Exhibit P-1 and also examined one witness i.e. witness no. 5, Sadre Alam in the support of his contention.

5. Para '19' of the impugned order clearly shows that to prove the *Nikahnama* Exhibit P-1, petitioner did not examine the author of the said *Nikahnama* nor any witness who signed the said *Nikahnama*, witness no. 5 Sadre Alam himself admitted the fact that the said *Nikahnama* was not written in from of him and nor he know the said Kazi Kayaz Hussain who prepared the said *Nikahnama*. In view of the above, the learned Family Court rightly arrived on the conclusion that the petitioner-husband is unable to establish the fact of executing the said *Nikahnama* Exhibit P-1.

6. Before the learned Family Court, the petitioner-husband also submitted a pen drive mentioning that in the pen drive some video clips of O.P. No. 2 (wife) have been present. Para '20' of the impugned order further shows that the



certificate under Section 65-B(4) of the Evidence Act has also not been submitted by the applicant-husband, therefore, the learned Family Court rightly arrived on the conclusion that the petitioner is also unable to establish this fact. The above findings recorded by the learned Family Court is in accordance with the relevant rules and law and the evidence available on record. Since the petitioner made an allegation to his wife that she is leading adulterous life, but is unable to establish this fact therefore, this only is a sufficient cause available to the O.P. No. 2 (wife) to reside separately from the petitioner-husband.

7. With regard to the quantum of amount of maintenance is concerned, looking to the status of both the parties and current price index, the amount of maintenance i.e. Rs. 4,000/- appears to be just and proper.

8. Accordingly, I do not find any merit in this revision, hence, this revision petition is hereby dismissed and admission is set aside.

(Arvind Singh Chandel , J)

tusharika/-

U		T	
---	--	---	--

