

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.412 of 2019

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

MUNNA PANDIT S/O Bhukhan Pandit, Resident of Village- Chitrasen,
Police Station- Belhar, District- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Fulkumari Devi, W/o Munna Pandit, D/o Ram Narayan Pandit, At present
resident of village- Rajarampur, P.S.- Belhar, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Mukherjee, Advocate Mr. Ganesh Sharma, Advocate
For the O.P. No.2	:	Mr. Brij Nandan Prasad, Advocate
For the Respondent/s	:	Mr. Sunil Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 12-02-2024 The instant Revision is directed against an order passed by learned Principal Judge, Family Court, Banka on 23rd January, 2019 in Miscellaneous (Maintenance) Case No. 86/2016 whereby and whereunder the trial court directed petitioner to pay maintenance at the rate of Rs. 12,000/- per month within 10th of each succeeding month in favour of the opposite party no.2.

2. It is submitted by the learned Advocate for the petitioner that the opposite party no.2 is not a legally married wife of the petitioner. He was forced and compelled to declare the opposite party no.2 as his wife. The petitioner was previously married after the death of his wife. The opposite



party no.2 most illegally and impropriety claimed himself as his wife. Therefore, she is not entitled to get an maintenance under Section 125 of the Code of Criminal Procedure and the impugned order is liable to be rejected.

3. The learned trial court in the impugned order recorded that previously the opposite party no.2 filed an application under Section 125 of the Cr.P.C. which was registered as Miscellaneous (Maintenance) Case No. 88/2011 and the said application was disposed of on 27th January, 2016 wherein the present petitioner accepted the opposite party no.2 as his wife. The said fact is elaborately discussed in paragraph 10 of the impugned judgment.

4. Learned Advocate for the petitioner submits that no marriage in accordance with Hindu Marriage Act and Customs was performed between the petitioner and the opposite party. The petitioner in previous proceeding admitted that the opposite party no.2 is his wife out of fear. Moreover, it is contended by the learned Advocate for the petitioner that he did not receive any notice of the Miscellaneous (Maintenance) Case No. 86 of 2016, and therefore, he would not adduce any evidence in the trial court.

5. From the cause title of the impugned order, it is



ascertained that the opposite party was represented by Sri Ghanshyam Prasad Sinha, learned Advocate. The Opposite party no.2 has filed a supplementary affidavit this day annexing the copy of the summons received by the petitioner. Therefore, the petitioner cannot claim that he was prevented from contesting the proceeding under Section 125 of the Cr.P.C. in the trial court.

6. The learned Advocate for the petitioner further submits that the petitioner has obligations to maintain his old ailing parents and he has other liabilities, and therefore, it is not possible for him to pay maintenance allowance at the rate of Rs. 12,000/- per month.

7. The learned trial Judge on examination of the evidence on record found that in 2019, the petitioner used to earn Rs. 36,000/- per month. He is granted maintenance allowance at the rate of Rs. 12,000/- per month being one third of the salary of the petitioner. The petitioner is in Indian Army. From 2019-2024, his salary has been increased regularly by way of revision Appeal grant of dearness allowance twice a year.

8. Considering such aspect of the matter, this court does not feel that the amount of Rs. 20,000/- is excessive and on bearable for the petitioner to pay.



9. For the reasons stated above, I do not find any merits in the instant Revision, therefore, this Revision is dismissed.

(Bibek Chaudhuri, J)

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