

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.482 of 2019

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

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UMESH SINGH S/o Maksudan Singh R/o village- Koisa Khurd Tola Mishrauli, P.S.- Kateya, District- Gopalganj (Wrongly mentioned as District- Deoria (U.P) in Impugned order)

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Gita Devi W/o Umesh Singh R/o village- Koisa Khurd Tola Mishrauli, P.S.- Kateya, District- Gopalganj. Parental Address D/o Ramgati Bhagat, Village- Hathiyagarh Saraura, P.S.- Kotwali, District- Deoria (U.P.)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Yadav, Advocate
For the Respondent/s : Mr. Ram Anurag Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 24-01-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. An order of maintenance passed by the learned Principal Judge, Family Court, Gopalganj in Maintenance Case No. 240 of 2013 (CIS Reg. No.19/2014) on 01.02.2019 granting maintenance in favour of the opposite party no.2 to the tune of Rs.4,000/- per month and Rs.1,000/- per month each for three minor children of the parties, total being Rs.7,000/- per month is under challenge in the instant petition by the husband, opposite party of the maintenance case (hereinafter described as ‘the petitioner’).

3. Only contention of the petitioner is that the



opposite party no.2 has voluntarily left him without his permission and married to another person namely, Ramsakal Kushwaha of Madhopur in the district of Deoria.

4. In support of his contention, the learned advocate for the petitioner has filed Adhar Card issued in the name of Geeta Devi on 26.08.2022. The local Gram Panchayat also certified that the marriage of Geeta Devi was solemnized with the said Ramsakal Kushwaha of Madhopur on 10.07.2016.

5. If the opposite party no.2/wife leaves the association of the petitioner voluntarily and her marriage is solemnized with another person, the petitioner is not under obligation to pay any maintenance to her.

6. However, it is not disputed that in the wedlock between the petitioner and opposite party no.2, the opposite party no.2 gave birth to three children who are residing with the opposite party no.2. The petitioner is of course under obligation to maintain his children who are now in custody of the opposite party no.2.

7. In view of the above discussion, the impugned order is set aside in part and remanded to the Court of the learned Principal Judge, Family Court, Gopalganj directing him to re-hear the case after granting the parties to adduced evidence



on limited point as to whether the opposite party no.2 has married for the second time to one Ramsakal Kushwaha. On proof of such fact, the learned Trial Judge shall decide as to whether the opposite party no.2 who is the petitioner before him is entitled to get any maintenance for herself.

8. The petitioner is however, directed to go on paying maintenance allowance at the rate of Rs.1,000/- per month each for three minor children of the parties who are in custody of the opposite party no.2. The impugned order dated 01.02.2019 in Maintenance Case No.240 of 2013 is quashed and set aside in part. Accordingly, the revision application is, therefore, allowed in part. The case be remanded back to the learned Principal Judge, Family Court, Gopalganj for decision on the basis of the evidence adduced by the parties on the point as made herein above.

(Bibek Chaudhuri, J)

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