

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.463 of 2019

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

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VIJAY PATEL Son of Mukti Patel Resident of Village - Mangalpur, P.O. Behri, P.S.- Sikta, Distt - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjeeta Patel D/o Rajendra Prasad Patel Resident of Village - Langri, P.S.- Langri, Distt - Parsa (Nepal)
3. Ajay Prasad Son of Achhelal Prasad Ward No. 16, Pani Tanki, Near Birganj F.M. Distt - Parsa (Nepal).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bhagya Narayan Jha, Adv.
For the Respondent/s : Mr.Nand Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 15-01-2024 Heard learned Advocate for the petitioner as well as

learned APP for the State.

2. The instant revision is directed against an order dated 12th September, passed by the learned Principal Judge, Family Court, West Champaran, Bettiah in a Maintenance proceeding under Section 125 of the Cr.P.C. which was registered in the trial court as Maintenance Case No. 233-M-2009.

3. By passing the order impugned, learned Principal Judge, West Champaran, Bettiah directed the petitioner to pay maintenance @ Rs. 2,000/- per month to the opposite party no.2



and Rs. 1500/- each for their two children, total being Rs.5,000/- per month.

4. It is submitted by the learned Advocate for the petitioner/husband that the learned trial Judge failed to consider the case of the petitioner to the effect that the opposite party no.2 has already solemnized a second marriage and has been staying at Nepal. The petitioner filed a suit for restitution of conjugal rights. The said suit was decreed, but the opposite party no. 2 has not returned to his house. It is submitted by the learned Advocate for the petitioner further that the petitioner is not unwilling to pay maintenance allowance @ Rs. 5,000/- per month as decided by the court below, but if the opposite party no.2 being the wife of the petitioner re-married, she is not entitled to get any maintenance.

5. I have gone through the impugned order, during trial of the case, the opposite party examined as many as five witnesses, though the petitioner stating in his evidence that he is ready to keep the petitioner and their children at his house. Nowhere it is stated that the opposite party no. 2 has solemnized the second marriage. Oral evidence of allegation of second marriage does not prove the said fact. Moreover, the allegation of second marriage to a married lady is sufficient for her to



refuse to stay with her husband.

6. The learned trial Judge passed absolutely a meger amount of Rs.2,000/- for the maintenance of the opposite party no.2 and Rs.1500/- for the minor children of the parties. The amount of maintenance is not at all excessive, but considering the present market price this Court is of the view that the same is below minimum. However, since the opposite party no. 2 has not challenged the quantum of maintenance, I am not in a position to enhance the rate of maintenance unilaterally.

7. On perusal of the impugned order, I do not find any illegality and material irregularity and accordingly, the instant revision is dismissed.

(Bibek Chaudhuri, J)

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