

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1031 of 2018

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

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Sunita Devi @ Pappu w/o Sri Amrit Singh, D/o Late Sita Ram Singh permanent resident of Nawanagar, P.S. Bidupur, District - Vaishali present resident of Mohalla - Chitragupta Nagar, Bankemens Colony P.S. Patrakar Nagar, District Patna.

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Amrit Singh Constable No. 501, S/o Chakhan Singh permanent resident of Nawanagar, P.S. Bidupur, District Vaishali at present posted Sub-Inspector under Jamtara, P.S. District - Tara Jharkhand.
- 3. The Superintendent of Police, Dumka Jharkhand

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Adv. Mr. S. K. Bhatnagar, Adv. Mr. Kumar Shivam Sinha, Adv.
For the O.P. No. 2	:	Mr. Amit Kumar Singh, Adv. Mr. Gaurav Singh Adv.
For the State	:	Mr. Brajendra Nath Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 20-02-2024 On 12th December, 2023, a Co-ordinate Bench of this Court had directed the Superintendent of Police, Dumka to inquire about the fact as to whether the opposite party no. 2 had got pasted the photograph of some other lady in the name of Sunita Devi showing her his wife in his pension papers. It is also mentioned that the letter annexed with the supplementary affidavit by the petitioner speaks of the fact that the photo pasted on the certificates which have been mentioned, does not tally with the photograph of the petitioner.

2. The Superintendent of Police, Dumka did not file

any report as directed by this Court.

3. Be that as it may, the instant revision is directed against an order dated 27.07.2018 passed in Cr. Misc. No. 11 of 2014 arising out of Maintenance Case No. 897 (M) of 1991 passed by the learned Principal Judge, Family Court, Patna whereby and where under the learned trial Judge allowed the petition filed by the petitioner under Section 127 of the Code of Criminal Procedure and directed the opposite party no. 2 to pay Rs. 5,000/- per month to the petitioner for her maintenance *w.e.f.* the date of the order. The learned trial Judge also enhanced the maintenance amount of Rs. 5000/-, considering the status of the opposite party no. 2. The petitioner has filed the instant revision assailing the order dated 27.07.2018. This Court records at the outset that for disposal of the instant revision, it is not necessary to have the report of the Superintendent of Police, Dumka, as to whether in the pension book, the opposite party no. 2 had pasted the photograph of another lady and claimed herself to be Sunita Devi, the petitioner herein. The opposite party no. 2 has filed a counter-affidavit on 11.01.2024 stating *inter alia* that in the year 1994, he performed second marriage with another lady and incidentally, her name was also Sunita Devi. It is admitted by him that he has been residing with his

second wife and two children were born in the wedlock between the opposite party no. 2 and his second wife.

4. In view of such admission, it is not at all required to find out as to whether the opposite party no. 2 committed any forgery in the record of his pension papers or not, while dealing with an application under Section 19(4) of the Family Courts Act, 1984.

5. It is found from the record that indisputably, the opposite party no. 2 retired from service as a Sub-Inspector of Police. It is also found from the record that the opposite party no. 2 receives pension at the rate of Rs. 44,279/- per month. This fact has not been specifically denied by the opposite party no. 2.

6. It is needless to say that during the subsistence of his first marriage with the present petitioner, his marriage with another lady of same name is *void ab initio* under Section 5 of the Hindu Marriage Act, 1955. Moreover, a Government employee cannot contract second marriage. Contracting second marriage by a Government employee is a ground for suspension from service and dismissal as per the service rules.

7. However, this Court is not dealing with the issue as to whether the opposite party no. 2 was continuing his service

suppressing his second marriage or not. This Court is concerned about the question as to whether the enhanced amount of maintenance at the rate of Rs. 5,000/- per month passed in the order impugned is sufficient for the petitioner or not. Considering the present market price and the need of a person being the wife of a Sub-Inspector according to her status.

8. In my considered view, when the opposite party no. 2 is getting pension at the rate of Rs. 44,279/- per month and the pension amount will be gradually increased, this Court is of the view that enhancement of maintenance allowance from Rs. 3,500/- to Rs. 5,000/- by passing the impugned order is not adequate. On the aspect of fixing the maintenance allowance which is required to be enhanced, the learned trial Judge fails to exercise his jurisdiction vested in law.

9. This Court is of the view considering the amount of pension received by the opposite party no. 2 that the petitioner is entitled to get Rs. 10,000/- per month towards maintenance allowance. Therefore, the impugned order of enhancement of maintenance is modified and the opposite party no. 2 is directed to pay Rs. 10,000/- per month towards maintenance allowance to the petitioner from the date on which the impugned order was passed.

10. The opposite party no. 2 is directed to pay the arrear maintenance at an enhanced rate in 24 equal monthly installment, along with the current maintenance allowance.

11. With the above direction, the instant revision is disposed of.

(Bibek Chaudhuri, J.)

sadique/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2024
Transmission Date	NA