

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.84 of 2021

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

Md. Ataul Haque @ Atabul Haque @ Alam, S/o Sagiruddin @ Baunoo, R/o Village and P.O. Simiri, P.S.- Simri Bakhtiyarpur, District- Saharsa.

... .. Petitioner

Versus

1. Razia Khatoon @ Ganauri, Wife (allegedly) of Md. Ataul Haque, W/o Md. Monazir, Resident of Village and P.O.- Simri, P.S.- Simri Bakhtiyarpur, District- Saharsa
2. Md. Hasan @ Md. Satabul Haque, S/o Md. Monazir, R/o Village and P.O.- Simri, P.S.- Simribakhtiyarpur, District- Saharsa
3. The State of Bihar

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Narayan Singh, Senior Advocate Mr. Prabhat Prasoon, Advocate
For the State	:	Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 29-01-2024 Heard Mr. Narayan Singh, learned Senior Counsel assisted by Mr. Prabhat Prasoon, learned counsel for the petitioner. Mr. Md. Fahimuddin, learned APP appears for the State.

2. This revision application has been filed for setting aside the judgment and order dated 05.03.2020 passed by learned Principal Judge, Family Court, Saharsa in Vividh Bharan Poshan Vad Sankhya No. 57 of 2009 whereby and whereunder the Principal Judge, Family Court, Saharsa has directed the petitioner to pay Rs.2,000/- per month to the opposite party no. 1 with effect from 27.01.2010 for maintenance.

3. Learned Senior Counsel for the petitioner has

advanced his arguments mainly on the line that the learned court below has erred in appreciating the materials available on the record and has wrongly held that the opposite party no. 1 is the wife of the petitioner. It is submitted that the opposite party no. 1 was married to one Md. Monazir and this may be found from the statements made by her in course of her cross-examination.

4. On query made by this Court, learned Senior Counsel for the petitioner submits that even as the petitioner has not approached the civil court of competent jurisdiction for a declaration that the opposite party no. 1 is not his legally wedded wife, he would pray that this Court should stay the operation of the impugned judgment and the petitioner be allowed to seek his remedy of getting a declaration from the civil court/appropriate court in an appropriate proceeding.

5. Having heard learned Senior Counsel for the petitioner, this Court has also perused the materials available on the record. The learned Principal Judge, Family Court, Saharsa has, in his detailed judgment discussed the materials which were brought to his notice. The present petitioner deposed as OPW-8 in the court of learned Principal Judge, Family Court. He denied his *nikah* with the opposite party no. 1 and claimed that he was married to one Mobina Khatoon on 17.07.1987 and had five children from the said marriage. He alleged that the opposite

party no. 1 was married with one Md. Firoz and she was working as a daily-wager with her husband at Aligarh. She was thrown out by her husband whereafter she came back to her parents house in the year 1992 and was married again with Md. Monazir. The learned Principal Judge, Family Court has relied upon the statement of OPW-8 in paragraph '14' of his deposition wherein he has accepted that the opposite party no. 1 had lodged a case under Section 498A of the Indian Penal Code against the petitioner and the petitioner had obtained bail on the basis of a compromise. In the compromise recorded between the parties, this petitioner has admitted that the opposite party no. 1 is his legally wedded wife and he would pay her maintenance after coming out of jail. He denied to have knowledge that in the family register, voter list and bank account, his name has been mentioned as husband of opposite party no. 1.

6. The learned Principal Judge, Family Court has recorded about the contents of the deposition of this petitioner and the compromise which was proved as Exhibit '1'. This petitioner has admitted there on 20.07.2005 that he was married to the opposite party no. 1 and now they have no dispute. The ration card which has been proved by the applicant-opposite party no. 1 as Exhibit 'X/1' also contains the name of this petitioner as her husband and the name of their son Md. Hasan

along with the photographs of all the three has been mentioned. It has further been proved through Exhibit ‘X/2’ that in the voter list of 2013, in the Assembly Constitution, the photo of opposite party no. 1 is there at Sl. No. 685 with her name, her home address and husband name has been given as that of the petitioner.

7. Having regard to the above mentioned materials which have been discussed in the impugned order, this Court finds no reason to take any other view.

8. Even on the quantum of maintenance, this Court finds that learned court below has provided only a sum of Rs.2,000/- per month which is in much lower side. In the case of **Anju Garg and Another versus Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**, the Hon’ble Supreme Court has held that an able-bodied person has a legal and pious obligation to maintain his wife.

9. In such circumstances, this Court finds no illegality in the impugned judgment. This revision application is dismissed.

(Rajeev Ranjan Prasad, J)

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