

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1378 of 2019**

**In
Miscellaneous Appeal No.101 of 2018**

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

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1. RAM ISHWAR CHOUHAN Son of Late Sri Pati Chouhan @ Pati Nonia Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.
 2. Dasrath Chouhan Son of Late Sri Pati Chouhan @ Pati Nonia Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.
 3. Jai Chouhan @ Jai Prakash Chouhan Son of Late Sri Pati Chouhan @ Pati Nonia Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.
 4. Nageshwar Chouhan @ Nageshwar Nonia Son of Late Sri Pati Chouhan @ Pati Nonia Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.

... .. Petitioner/s

Versus

1. CHAMPA DEVI Wife of Late Sri Pati Chouhan Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.
2. Urmila Kumari Daughter of Late Sri Pati Chouhan Resident of Village-Ahiyachak Tola-Bishunpur, P.S-Bind, District-Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Chandra, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 04-03-2024 The instant criminal revision application is directed against the order dated 10.01.2018 passed in Maintenance Case No. 42 (M) of 2007 by the learned Principal Judge, Family Court, Nalanda at Biharsharif granting maintenance to the tune of Rs. 4000/- per month to be paid to the opposite parties herein.



2. The petitioners claim to be the step sons of opposite party No.1 and step brothers of opposite party No.2. Both the opposite parties as petitioners filed an application under Section 125 of the Cr.P.C. praying for maintenance against the present petitioners on the ground that they being the step sons of opposite party No.1, Champa Devi are under legal and moral obligation to maintain their step mother and sisters.

3. The petitioners as opposite parties contested the said proceeding by filing a written statement wherein it is contended by the present petitioners that the name of their father was Patti Chauhan, since deceased and his marriage was solemnized with one Bedamiya Devi under the Hindu rites and ceremony. Out of their wedlock, Bedamiya Devi gave birth to the petitioners. They are now aged about 64, 56, 45 and 39 years, respectively. Bedamiya Devi died on 23.04.2014.

4. In the year, 2007, the present opposite party Nos. 1 and 2 as petitioners filed an application under Section 125 Cr.P.C. praying for maintenance claiming to be the second wife and the daughter born in the wedlock of Patti Chauhan and petitioner No.1, Champa Devi. The trial Court



did not frame any issue as to whether on the date of application i.e. in the year 2007, the first marriage of Patti Chauhan was subsisting and if the marriage of Patti Chauhan was subsisting, then the second marriage of Patti Chauhan with Champa Devi under the Hindu Marriage Act, 1955 would have been a nullity.

5. From the show cause submitted by the present petitioners, it is evident that Bedamiya Devi died on 23.04.2014, thus, in the year 2007 when the application for maintenance was filed, the first marriage of Patti Chauhan was subsisting.

6. This Court fails to understand that a Judicial Officer in the rank of Principal Judge, Family Court failed to consider this aspect of the matter and after going through the pleading, straightway passed the order allowing maintenance in favour of opposite parties directing the petitioners to pay the same. A lady, who is not legally wedded wife of the father of the petitioners, cannot claim any maintenance from her step sons. Moreover, opposite party Nos. 3 is presently married and she has been staying at her matrimonial home being maintained by her husband, therefore, she is also not entitled to get maintenance from



the petitioners.

7. For the reasons stated above, the impugned order dated 10.01.2018 passed by the learned Principal Judge, Family Court, Nalanda at Bihar Sharif is considered and set aside.

8. Registry is directed to place the judgment to the concerned Inspecting Judge to consider the merit of the Judicial Officer while assessing his Annual Confidential Report.

8. The instant revision application is, accordingly, allowed.

(Bibek Chaudhuri, J)

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