

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.550 of 2024**

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

Rajeev Kumar @ Vinod Kumar Son of Kangres Yadav @Kangresh Prasad  
Village- Golakpur, Po- Saidabad, PS- Kako Pali, Dist-Jehanabad P/A-  
Working As Corporal 903210, Defence Intelligence Agency At Head Quarter  
Integrated Defence Staff, Ministry of Defence, Kashmir House, New Delhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Devanti Devi Wife of Rajeev Kumar @ Vinod Kumar Village- Golakpur, Ps-  
Pali Kako, Dist- Jehanabad
3. Vivek Kumar Son of Rajeev Kumar @ Vinod Kumar Village- Golakpur, Ps-  
Pali Kako, Dist- Jehanabad

... .. Respondent/s

**Appearance :**

|                      |   |                                                                                                |
|----------------------|---|------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Sunil Kumar, Advocate<br>Mr. Sanjeeb Kr. Sanju, Advocate<br>Mr. Bhaskar Sandilya, Advocate |
| For the O.P. 2       | : | Mr. Aditya Kumar Pandey, Advocate                                                              |
| For the Respondent/s | : | Mr. Ram Bilash Roy Raman, Advocate                                                             |

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

6      22-04-2025                      The instant Criminal Revision Application is directed  
  
against the order, dated 6<sup>th</sup> of April, 2024, passed by Learned  
  
Principal Judge, Family Court, Jehanabad, in Maintenance Case  
  
No. 36 of 2014, whereby and whereunder, the Learned Family  
  
Court granted maintenance of Rs. 10,000 per month to Opposite  
  
Party No. 2.

2. In Maintenance Case No. 36 of 2014, the Opposite  
  
Party No. 2 alleged that she is legally wedded wife of the  
  
Petitioner and the marriage was solemnized in accordance with



Hindu Rites and Custom in the year 1994. From the wedlock, Opposite Party No. 3 was born in the year 2000 and another son (since deceased) was born on 16<sup>th</sup> of February, 2010. It is further stated that the petitioner was selected in the Indian Air Force in the year 2002 and they were spending happy conjugal life till 2010. Subsequently, the petitioner and his parents started torturing the opposite party no. 2 and her son (opposite party no. 3) and since then her father and brother have been maintaining them, which compelled the opposite party no. 2 to prefer Maintenance Case No. 36 of 2014 before the Family Court, Jehanabad.

3. The learned counsel appearing on behalf of the petitioner submits that the date of birth of the petitioner is 5<sup>th</sup> of February, 1986 as per records in Bihar School Examination Board and as per the statement made in Maintenance Case, the marriage was solemnized in May 1994. It is highly improbable that at the age of only eight years, marriage was solemnized which is also not justified/legal as per Hindu Marriage Act, 1955 which prescribes, 21 years as the minimum age of male to get married. Petitioner denies any marriage taking place with the Opposite party and asserts that no marriage was solemnized between the Petitioner and opposite party. He further submits



that the opposite party no. 2 is elder to the petitioner and has fraudulently and forcibly entered into the house of the Petitioner upon the instigation of enemy/gotia in order to grab the land of the Petitioner as he lives far away from his native place for performing his duties. During the pendency of Maintenance Case No. 36 of 2014, the Petitioner retired from the Indian Air Force and he is receiving pension of Rs. 26,300/- per month and except pension, there is no other source of income to lead his life.

4. Taking into consideration the rival submissions of the parties, this Court will first determine as to whether the Opposite Party No. 2 is the legally wedded wife of the petitioner.

5. Section 5(iii) of the Hindu Marriage Act deals with the age factor, according to which the bridegroom must be of 21 years old and the bride of 18 years at the time of marriage. Whereas Section 11 states the circumstances where a marriage can be held to be void. Section 12(1)(c) allows a marriage to be annulled if consent was obtained by force or fraud- but not solely because of the minority. The Prohibition of Child Marriage Act, 2006 (PCMA), though separate, provides that child marriages are voidable at the option of either of the parties



on attainment of majority. In the instant case when the party attained the age of majority, they did not come for the annulment of marriage at any point. Rather the parties led a happy life and gave birth to two children.

6. In the case of ***Gullipilli Sowria Raj v. Bandaru Pavani***, reported in ***(2009) 1 SCC 714***, the Supreme Court held that marriage under the Hindu Marriage Act must fulfill the conditions under Section 5. However, it also clarified that a marriage in contravention of age is not void, but voidable.

7. Since none of the parties raised any objection to the marriage, the marriage cannot be annulled because at this juncture now the parties are not just responsible for themselves but also responsible for the child born out of wedlock and the future of the child.

8. Hence, this Court upheld the marriage to be a lawful marriage.

9. Now, the Court has to determine the quantum of the maintenance which has to be paid to the opposite parties by the Petitioner. The petitioner's accurate salary is disputed. Time and again, the Petitioner has been directed to produce the salary slip but the Petitioner has not obeyed the orders and has not produced the salary slip.



10. In view of the aforesaid facts and circumstances, this Court is of the opinion that no interference is required with the order passed by the Learned Principal Judge, Family Court, Jehanabad, in Maintenance Case No. 36 of 2014 and the same is affirmed.

11. With the aforesaid observation/direction, the instant revisional application stands dismissed.

**(Bibek Chaudhuri, J)**

Suraj Dubey/-

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