

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION  
APPELLATE SIDE**

**PRESENT:  
THE HON'BLE JUSTICE UDAY KUMAR**

**CRR 3513 of 2019**

**Sri Satyendra Nath Murmu  
-Vs-  
The State of West Bengal & Anr.**

|                             |                                                                                                    |
|-----------------------------|----------------------------------------------------------------------------------------------------|
| For the Petitioners         | : Mr. Abhra Mukherjee,<br>Mr. Swakshar Kr. Mondal,<br>Mr. Arpayan Mukherjee,<br>Mr. Himadree Ghosh |
| For the Opposite Party No.2 | : Mr. Aritra Bhattacharya,<br>Mr. Suman Dutta                                                      |
| Hearing concluded on        | : 06.02.2026                                                                                       |
| Judgment on                 | : 13.02.2026                                                                                       |

**UDAY KUMAR, J.: –**

**1.** The petitioner, Satyendra Nath Murmu, a primary school teacher, has moved this Court under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973, challenging the propriety and legality of the judgment and order dated 31.08.2019, passed by the Learned Additional Sessions Judge, 1st Court, Purulia, in Criminal Revision No. 09 of 2017. By the impugned judgment, the first Revisional Court set aside an order of dismissal dated 05.12.2016, passed by the Learned Judicial Magistrate, 1st Court, Purulia, in Misc. Case No. 65 of 2010, which had originally rejected / dismissed the maintenance claim of Opposite Party No. 2, Smt. Anandi Murmu, for the lack

of the legal status of a "wife." Conversely, the Learned Revisional Court reversed that finding and granted maintenance in her favour.

2. The factual matrix leading to the present revision reveals that this litigation stems from a claim filed by Opposite Party No. 2 Anandi Murmu (second wife of petitioner) in 2010, under Section 125 of the Code of Criminal Procedure (the Code). She asserted that her marriage with the petitioner was solemnized on 11.12.1995 via registration under the Special Marriage Act, followed by a social ceremony as per Santhal Rites on 22.02.1996. She alleged that after years of cohabitation, the petitioner subjected her to physical and mental torture and eventually deserted her.
3. The petitioner-husband countered this claim, both on the facts and jurisdictional threshold, contending that Anandi is not his "legally wedded wife" because his first marriage to one Jyotsna Rani Murmu, solemnized in 1397 B.S. (1990), is still subsisting. The records indicate that this first marriage had already been judicially recognized by the parties before the Court at Bankura, in a prior judicial proceeding of Misc. Case No. 22 of 2004.
4. The Learned Trial Magistrate accepted the petitioner's defense. He applied the law strictly. Under section 5 (i) of the Hindu Marriage Act, a man cannot marry a second time while his first wife is alive. Such a marriage is void from the beginning (*ab initio*). If the marriage is void, the woman cannot claim the status of a "wife." Admittedly, at the time of the alleged marriage with the claimant, the petitioner had a living spouse. Consequently, the second marriage was eclipsed / hit by the statutory bar of Section 5(i) of the Hindu Marriage Act, 1955, making it void *ab initio*. Following the "Strict Rule" of interpretation, the Magistrate dismissed the maintenance petition.

5. The first Revisional Court, however, reversed / set aside this finding of dismissal. Relying on the "Social Justice" approach ruled by the Hon'ble Supreme Court in *Badshah v. Urmilla Badshah Godse* [(2014) 1 SCC 188], the Court held that the petitioner could not take advantage of his own wrong to evade financial obligations, especially in light of prior admissions and a registered marriage certificate.
6. The core question that arises for this Court's consideration is whether a woman who enters into a marriage with the knowledge of her husband's prior valid marriage, is entitled to claim maintenance *as a "wife"* under Section 125 of the Code?
7. Mr. Abhra Mukherjee, the learned counsel for the petitioner, underscored for a strict legal interpretation of the term "wife" under Section 125 of the Code. It must be interpreted strictly to mean a "legally wedded wife." Relying thereupon, learned Counsel contended that once the Courts in Bankura judicially recognized Jyotsna Rani Murmu as the first wife, any subsequent marriage entered into by the petitioner became *void ab initio* (invalid from the very beginning).
8. He argued that such a second marriage is a nullity under Section 5(i) of the Hindu Marriage Act, as once a union is hit by this statutory bar, the doors to Section 125 are effectively bolted. He further submitted that there can be no "estoppel against a statute"; therefore, the prior admission or marriage certificates cannot validate a union that the law expressly forbids.
9. Conversely, Mr. Aritra Bhattacharya, the learned counsel for the Opposite Party, submitted that Section 125 is social welfare legislation and the standard of proof in Section 125 is summary, where the same rigors as of a civil trial

would not be applied. He relied on a suite of documents—the Marriage Certificate (Exhibit-1), the Ration Card, and the Voter ID—to establish a strong presumption of a valid marriage.

- 10.** Mr. Bhattacharya described the petitioner's conduct as "socially and legally corrupt," pointing out that the husband shifts his legal stance across different litigations solely to evade his financial obligations.
- 11.** Mr. Bhattacharya eventually argued that the claimant is entitled to the court's protection based on years of cohabitation and a formal registration of marriage, as the same now estopped the petitioner from denying the claimant's status merely to escape financial liability to maintain her under Section 125 which primarily intended to prevent vagrancy and destitution of wife
- 12.** Indubitably, the controversy is centered around the entitlement of Opposite Party No.2 for maintenance under social-welfare provisions under Section 125 of the Code of Criminal Procedure. It is a prophylactic measure enacted by the Legislature to shield society from the twin evils of vagrancy and destitution. Within this framework, the Court must examine whether the claimant, Smt. Anandi Murmu, qualifies for the legal status of a "wife."
- 13.** The expression "wife" in Section 125 has been the subject of extensive judicial scrutiny. It is a fundamental canon of interpretation that words in a statute must be given their ordinary legal meaning unless the context suggests otherwise. While the Code is a piece of social justice legislation, it cannot be read in a vacuum; it must be interpreted in harmony with the substantive personal laws governing the parties. Under Section 5(i) of the Hindu Marriage Act, 1955, as well as the Special Marriage Act, 1954, the "monogamy rule" is a condition precedent for a valid marriage. Consequently, in the context of

matrimonial status, the term "wife" refers strictly to a person who has entered into a legally valid marriage.

**14.** As observed by Hon'ble Supreme Court in *Savita Kumari v. State of Haryana* [(2003) 3 SCC 357], the court must maintain a distinction between a "legal marriage" and "long-term cohabitation" for the purposes of different statutes. Where the law requires a specific status, that status must be proven through the prism of substantive law.

**15.** Historically, the law has favoured a strict interpretation. The Hon'ble Supreme Court established the "Strict Rule", in the landmark case of *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav* [(1988) 1 SCC 530], where it was categorically held that -

*"The expression 'wife' in Section 125 of the Code should be interpreted to mean only a legally wedded wife. The marriage of a woman with a man who has a living spouse... is a nullity and the woman is not entitled to maintenance."*

**16.** A marriage in contravention of the monogamy rule is a nullity and generally cannot sustain a claim for maintenance. This view was further fortified in *Savitaben Somabhai Bhatiya v. State of Gujarat* (2005) 3 SCC 636, where it was observed that however desirable it may be to protect a woman, the legislative intent behind the word "wife" cannot be ignored to include a woman in a void marriage.

**17.** However, the Supreme Court carved out an exception for the "Innocent Victim" based on Estoppel in *Badshah (supra)*. The Apex Court held that where a man fraudulently conceals his first marriage to dupe a woman into a second marriage, he is estopped from pleading the nullity of that marriage to avoid

paying maintenance. This prevents a man from taking advantage of his own fraud. The relevant paragraphs defining this exception are:

*"13.2. ...at least for the purpose of Section 125 Cr.P.C, it would be treated as a 'marriage' and the woman would be entitled to maintenance. We are of the opinion that when the husband wants to take the benefit of his own wrong by raising a contention that the second marriage during the subsistence of the first marriage is void... such a husband cannot be permitted to rely on the said contention."*

*"13.3. ...The husband, in such circumstances, cannot be allowed to take advantage of his own wrong and turn around or say that the respondents are not entitled to maintenance... This is based on the principle of 'estoppel'."*

**18.** Where a woman enters into a marriage with the full knowledge (*scienter*) that the man's first marriage is subsisting, the element of "purposive interpretation" and "deception" required for the *Badshah* exception, conspicuously absent. The law does not protect a person who knowingly enters into a bigamous relationship. As held by the Apex Court in the same judgment (*Badshah*):

*"15. ...The court has to give a very meaningful interpretation. However, at the same time, it is to be kept in mind that for the purpose of Section 125... 'wife' means a 'legally wedded wife'. The exception is created only where the husband has duped the victim by concealing the earlier marriage."*

- 19.** In any event, a judgment is not a statute; it must be read in light of its specific facts. This Court finds a fundamental distinction between the facts in *Badshah* and the instant case. The records indicate that Anandi Murmu was neither an innocent victim nor a stranger to the petitioner's history. She was a witness in prior litigations involving the first wife, Jyotsna Rani Murmu. This confirms she had full knowledge of the subsisting marriage. Where a woman knowingly enters into a bigamous relationship, she cannot later claim the equitable protection of "innocent deception." Consequently, the shield of "innocent deception" is unavailable.
- 20.** In this regard the view of Hon'ble Supreme Court in *Vimala (K.) v. Veeraswamy (K.)* [(1991) 2 SCC 375], is relevant where it was held that "*the object is to prevent vagrancy... but where the second marriage is performed with the knowledge that the first marriage is subsisting, the woman cannot take advantage of the beneficial provisions of Section 125.*"
- 21.** The first Revisional Court committed a patent error of law by applying the *Badshah* ratio where the element of deception was conspicuously absent. Status is a matter of law, not of admission. The petitioner's prior admissions cannot validate a status that the law declared void *ab initio*. To hold otherwise would render the "monogamy rule" under Section 5(i) of the Hindu Marriage Act a dead letter.
- 22.** In view of the aforesaid discussions, the Criminal Revisional Application being CRR 3513 of 2019 is allowed.
- 23.** The judgment and order of the Learned Additional Sessions Judge, 1st Court, Purulia, dated 31.08.2019, is hereby set aside and quashed.

- 24.** The original order of dismissal passed by the Learned Judicial Magistrate, 1st Court, Purulia, dated 05.12.2016, is restored and affirmed.
- 25.** It is clarified that while the claim under Section 125 fails, the opposite party is not precluded from seeking recourse under the Protection of Women from Domestic Violence Act, 2005, where the definition of a "domestic relationship" is wider.
- 26.** Any interim maintenance stands vacated.
- 27.** There shall be no order as to costs.
- 28.** Any application, if any, is also disposed of.
- 29.** The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
- 30.** Case diary, if any, be returned forthwith.
- 31.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

**(Uday Kumar, J.)**