

(2011) 09 JH CK 0111
In the Jharkhand High Court
Case No : Criminal Revision No. 856 of 2006

Hiramoti Alda

APPELLANT

Vs

The State of Jharkhand and Sidheshwar Deogam

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2011) 09 JH CK 0111

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prashant Kumar, J.—This revision is directed against the order dated 21st of June 2006 passed by sessions judge, West Singhbhum at Chaibasa in Criminal Revision No. 66 of 2005, whereby he allowed the Revision filed by opposite party No. 2 and set aside the order dated 13.09.2005 passed by Judicial Magistrate 1st Class, Chaibasa in Misc Case No. 04 of 2004.

2. It is submitted by Sri Kaushik Sarkhel, learned Counsel for Petitioner, that Petitioner is the second wife of opposite party No. 2. He further submits that under the "Ho" community, as per custom, second marriage is permissible, hence opposite party No. 2 is entitled for maintenance. He further submits that it is stated by Petitioner before Magistrate that she married with opposite party No. 2 in "Jisuku" form of marriage, which is prevalent in "Ho" community. However he admits that there is no evidence to prove the customs prevalent in "Ho" community. He also admits that no other witnesses examined by the Petitioner to prove that "Jisuku" form of marriage is prevalent in "Ho" community.

3. From perusal of impugned order, I find that learned Sessions Judge considered evidence available on record and concluded that in the instant case, no evidence was available on record to show that any marriage was solemnized in between O.P. No. 1 (Petitioner of this case) and Petitioner (O.P. No. 2 of this case). Learned

Counsel for the Petitioner did not show any material which suggest that finding of learned Sessions Judge is incorrect.

4. It is submitted that even if Petitioner is not legally married wife, she is entitled to get maintenance as per Section 125 of the Cr.P.C. if it is shown that she is living with O.P. No. 2 as wife. It appears that aforesaid submission has been considered by learned court below and same has been rejected in view of judgment of Hon"ble Supreme Court reported in 2005 (2) JLJR 120-(SC). In that case their Lordships held that expression wife used in Section 125 of the Code should be interpreted to mean only a legally wedded wife.

5. Considering the aforesaid facts and circumstances, I find no illegality in the impugned order. Hence I am not inclined to interfere with the same. Accordingly, this criminal revision is dismissed.