
(2010) 06 JH CK 0013

In the Jharkhand High Court

Case No : Criminal Revision No. 1034 of 2009

Pradeep Prasad Chourasia

APPELLANT

Vs

State of Jharkhand and Chandrawati Devi

RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2010) 4 JLJR 92 : (2011) 1 DMC 761

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jaya Roy, J.

Heard the counsel for the parties.

1. The petitioner has filed this application against the order dated 12.10.2009 passed by the Principal Judge, Family Court, Garhwa in Misc. case No. 70/07 filed u/s 125 Cr.P.C. whereby the said court has directed the petitioner to pay a sum of Rs. 2000/- per month to the applicant-opposite party No. 2 and Rs. 1000/- per month to her daughter, in total Rs. 3000/- per month from the date of the order.

2. Learned Counsel for the petitioner submits that the petitioner appeared before the trial court and filed his show cause stating that the proceeding u/s 125 Cr.P.C. against the petitioner is not maintainable as the applicant-opposite party No. 2 is not his legally married wife but only a talk of marriage was going on between the guardians of the parties. The marriage was not actually solemnized at any point of time. He has further submitted that the applicant-opposite party No. 2 is the legally married wife of his step brother, Lalit Prasad Chourasia. Therefor, he is not liable to pay maintenance to her. Learned Counsel has further submitted that the petitioner has married one Neera Devi and is living with her.

3. Learned Counsel appearing on behalf of the opposite party No. 2, Mr. Nilesh Kumar has submitted that the marriage between the petitioner and the opposite party No. 2 was performed in 1987-88 and both were residing as husband and wife. In 1990 a son was born and in 1993 a daughter was also born from the said wedlock. But, after the birth of the second child, the petitioner started misbehaving with the opposite party No. 2 and ultimately married another lady, Neera Devi and tried to drive out the present opposite party No. 2 from his house. A panchayati was also held in this regard. Ultimately in 2006 the petitioner and his second wife drove out this applicant-opposite party No. 2 along with her two children from their house. The opposite party No. 2 is maintaining herself and her two children by cleaning utensils etc. in other's house and is earning a very meager amount. Learned Counsel further submitted that the petitioner has got a watch shop and from the said business, he earns a sum of Rs. 15,000/- per month. Further more, he is getting Rs. 3000/- per month from the shop which he has given on rent to other person and also earning a sum of Rs. 5000/- from his agricultural land. In support of her contention regarding relationship between her and the petitioner the opposite party No. 2 has filed two documents i.e. ext. 1, voter I.D. card and ext. 2, admit card of her son, Ritesh Kumar. She has also examined three witnesses in support of her case. PW1 is her mother-in-law, PW 2 herself and PW3, is Zafruddin Khalifa

4. Further, PW 1, the mother in-law of the opposite party No. 2 has admitted this opposite party No. 2 as her Bahu and she has stated that the marriage was solemnized 22 years ago and from the said wedlock one son and one daughter were born. The petitioner, though denied the said relationship between him and this P.W.1 but admitted to the extent that PW1 is his step mother. PW 3 who is a tailor and independent witness, has also stated that the father of the present petitioner married twice. After death of his first wife, he married second lady who was the sister of his first wife. He has stated that Baijnath, the father of the petitioner had two sons from his second wife, Saraswati Devi (PW1). Ext. 1 is the voter I.D. card issued by the Election Commission, Govt. of India in which the present petitioner, Pradeep Prasad Chourasia, has been shown as husband of Chandrawati Devi, the opposite party No. 2. Ext. 2 is the admit card of Ritesh Kumar which also shows that the petitioner is the father of Ritesh Kumar and Chandrawati Devi is the wife of the petitioner. Thus; from these documentary evidences it is clear that there was relationship of husband and wife between the petitioner and opposite party No. 2. There is nothing on record to disbelieve the case of opposite party No. 2.

5. learned Counsel for opposite party No. 2 has also pointed out that the petitioner is so clever that he has already sold his house to his second wife

6. From the impugned order I find that the trial court has very elaborately discussed and considered the evidences of the witnesses produced by both the parties as also the documentary evidences. No doubt, the applicant-opposite party No. 2 could not file a chit of paper showing the exact amount of earning of

the petitioner but there is no dispute regarding earning of the petitioner who has a watch shop in Ranka Bajar.

7. Therefore, on overall consideration of all materials and the cases of the parties, in my view, the trial court has rightly granted the aforesaid maintenance of Rs. 2000/ - to the applicant -wife-opposite party No. 2 and Rs. 1000/ - to her daughter per month. This criminal revision has no merit which is, accordingly, dismissed.