
(2010) 11 JH CK 0055
In the Jharkhand High Court
Case No : Criminal Revision No. 573 of 2010

Sushil Marandi

APPELLANT

Vs

Ragina Hansda and Another

RESPONDENT

Date of Decision : 03-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125
Penal Code, 1860 (IPC) — Section 498

Citation : (2011) 2 DMC 237 : (2011) 1 JCR 397 : (2011) 7 RCR(Criminal) 731 : (2011) 1 JLJR 455

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jaya Roy, J.—Petitioner has filed this revision application against the order dated 20th March, 2010 passed in Criminal Miscellaneous Case No. 117 of 2008 by the Principal Judge, Family Court, Pakur, whereby he has directed the Petitioners to pay the maintenance amount of Rs. 1,000/- per month to the applicant-opposite party No. 1 from the date of filing of the suit i.e. from 26.11.2008.

2. The case, in brief, is that the applicants opposite party Nos. 1 and 2 have filed an application u/s 125, Code of Criminal Procedure stating therein that the applicant opposite party No. 1 Ragina Hansda was married with the Petitioner Sushil Marandi in July, 1997 at Jahirsthan by putting earth on her forehead and therefore, from the said wedlock, she gave birth to a male child. It is further alleged that the Petitioner after assaulting the applicant opposite party No. 1 Ragina Hansda, drove her from his house with her child. In spite of repeated requests when the Petitioner did not pay any maintenance amount, the applicant opposite party having no other alternative, filed an application u/s 125, Code of Criminal Procedure claiming maintenance for herself and for her child. It is further stated in the said application that the applicant-opposite party is a poor adivasi and having no source of income. On the other hand, the Petitioner has

got 40-50 bighas of agricultural lands and also he is running a business of stone chips from which he used to earn Rs. 15,000/- per month.

3. On receipt of the notice, the opposite party-Petitioner appeared and filed his show-cause stating therein that he has neither married with opposite party No. 1 Ragina Hansda nor the applicant-opposite party No. 2 Ratulal Marandi is his son. The further case of the opposite party-Petitioner is that Petitioner is the Christian and the marriage of a Christian always used to perform in presence of "Father" in the Church. The applicant-Petitioner has further stated in his show-cause that he is an unemployed student and has no source of income and he is fully dependent upon his father.

4. The applicant opposite party examined two witnesses to prove their case and also filed a certified copy of the judgment passed by the learned S.D.J.M., Pakur in PCR Case No. 235 of 2008 which is marked at Ext. 1. The applicant Petitioner though appeared and filed his show-cause and also cross-examined P.W. 1 but he has not cross-examined the applicant opposite party No. 1 i.e. P.W. 2 Ragina Hansda neither he has produced any witness to prove his case. He even did not examine himself to establish his case.

5. The counsel appearing for the Petitioner contended that the applicant-opposite party No. 1 herself has stated that she was married with the Petitioner at Jahirsthan by putting earth on her forehead, therefore, it cannot be said that the marriage ceremony was performed either according to the tribal customs or according to the Christian religion. Therefore, the applicant opposite party cannot claim herself as wife of the present Petitioner. The Petitioner being the Christian and usually their marriage used to perform in the Church or in any Court.

6. From the record, I find that P.W. 1 who is the uncle of the applicant-opposite party No. 1 Ragina Hansda, has stated in his evidence that she was married to the Petitioner namely Sushil Marandi at Jahirsthan by putting earth on her forehead and from their said wedlock, both have a son namely Ratulal Marandi. The applicant opposite party No. 1 (P.W. 2) has deposed in her evidence that she was reading in a Middle School, Pakur in Class VIII and she fell in love with Sushil Marandi and thereafter, both of them got married at Jahirsthan. When she become pregnant, a panchayat was convened in the village and her husband took her in his house but thereafter, he pressurized her for miscarriage of his child, but when she did not agree and a child was born, she was ousted from his house after assaulting her. She has further stated that for this assault, she filed a criminal case u/s 498, IPC and in the said case, the present Petitioner has been convicted. She has further stated in her evidence that the applicant Petitioner has re-married with other girl after ousted her from his house.

7. From the application filed by the applicant-opposite party No. 1, I find that in the bail application filed by the Petitioner, the present Petitioner has accepted the applicant-opposite party No. 1 as his wife.

8. From all these materials on record, I find that the applicant opposite party has

clearly established her case. Therefore, it is very clear that the Petitioner has deserted the applicants opposite party Nos. 1 and 2 willfully and not given them any amount for their maintenance in spite of their repeated requests admittedly from the date of filing of the application u/s 125, Code of Criminal Procedure.

9. As the applicants opposite party Nos. 1 and 2 are the wife and son of the present Petitioner, therefore, in my opinion, they are entitled to get maintenance amount from the Petitioner. Now, the question is what should be the amount of maintenance. No doubt, the applicants-opposite parties could not produce any chit of paper regarding the income of the Petitioner. As it is mentioned in the application filed by the applicant-opposite party that the Petitioner has got landed property, therefore, in my opinion, the maintenance amount of Rs. 1,000/- per month granted to both the applicants-opposite party by the trial Court from the date of application, is not at all unreasonable and excessive. Therefore, as discussed above, I do not find any reason to interfere with the Impugned order. Accordingly, this revision application is dismissed.