

IN THE HIGH COURT OF JUDICATURE AT PATNA  
Cr.Misc. No.8124 of 2005

Girja Ram, Son of Late Shibu Ram, resident of Village- Doiya, P.S.  
Noorsarai, District-Nalanda ----- **Petitioner**

**Versus**

- 1 THE STATE OF BIHAR
- 2 Sarita Devi, Wife of Mitan Rajak, wrongly stated in maintenance case no.62 (M)/2001 as Girja Ram, resident of Village- Doiya, P.S. Noorsarai, District-Nalanda
- 3 Sushma Kumari, D/O Mitan Rajak, W/o Muke Rajak, resident of Village-Ekangarsarai, P.S. Ekangarsarai, District-Nalanda ----- **Opp.Parties.**

-----  
For the petitioner : Mr. Anjani Kumar, Advocate  
For the State : Mr.Jharkhandi Upadhaya, A.P.P.  
For Opp.Party no.2 : M/S Pramod Kumar and  
Ritesh Kumar, Advocates.  
-----

**ORDER**

The sole Opp.Party of Misc.Case no.62 (M) of 2001 under Section 125 Cr.P.C. has filed this application for quashing of the order dated 29.5.2003 passed therein by Sri B.K.Mishra, Judicial Magistrate, First Class, Biharsharif, whereby he has directed for payment of Rs.1000/- per month and Rs.500/- per month for Opposite Party no.2 and her daughter respectively by way of maintenance and for the said amounts to be deducted and paid from the pension account of the petitioner. Accordingly, directions were issued to the Treasury Officer for compliance.

The impugned order was sought to be assailed by the learned counsel for the petitioner by submitting that there were sufficient materials to show that Opp.Party no.2 was the wife of one Mital Rajak and not of the petitioner.

It appears that the petitioner in the application initially filed only the operative part of the impugned order. Subsequently, the full order of the

trial court was filed through a supplementary affidavit.

The trial court , from the perusal of the impugned order, appears to have taken note of all the points raised by the petitioner herein and after due consideration thereof held that the marriage between the petitioner and opposite party had not been solemnized according to Hindu rites and rituals but for reasons recorded accepted the version of Opp.Party no.2 that their marriage was solemnized after the death of the first wife of the petitioner and a daughter was born out of that relationship between the petitioner and Opp.Party no.2 herein. These types of marriages are very common and prevalent amongst the members of the lower strata of society. Moreover, it is by now well settled that illegitimate child/children born out of such relationship are entitled to maintenance.

Moreover, the order of the court below is based on the basis of the evidence adduced by the parties. This court under the cloak of Section 482 Cr.P.C. cannot exercise the power of review, revision or appeal. The petitioner cannot be permitted to give vent to his frustration by involving the jurisdiction under Section 482 Cr.P.C.

I find no illegality in the impugned order dated 29.5.2003. The amount granted is also not excessive due regard being had to the prevailing conditions.

For the reasons stated above, I find no merit in this application which is dismissed.

( Abhijit Sinha, J )

**Patna High Court, Patna**  
**Date : the 28<sup>th</sup> May, 2009**  
**Nawal Kishore Singh/ A.F.R.**