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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 725 OF 2013

Single Bench

APPLICANT
(Non-Applicant)

: Dewanand Sahu S/o shri
Govind Sahu, aged about 50
years, by caste-teli R/o. at
post Shyamtarai Thana &
Tahsil-Dhamatari, Civil &
Revenue Dist. Dhamatari
(C.G.)

R.No.
Presented by Shri
dated
725/13
28.9.13

VERSUS

RESPONDENT
(Applicant)

Smt. Ganga Bai Sahu W/o.
Shri Dewanand, aged about 45
years, R/o. Shyamtarai,
Thana & Tahsil-Dhamatari,
Civil & Revenue, District
Dhamatari (C.G.)

REVISION UNDER SECTION 19 (4) OF THE FAMILY
COURTS ACT 1984, READ WITH SECTION 397 & 401
OF THE CODE OF CRIMINAL PROCEDURE 1973.

Being aggrieved by the order dated 28.09.2013 passed
by the learned Judge, Family Court Dhamatari, District
Dhamatari, (Presided over by smt. Meenakshi Gondale) in
case no. 08/2013, whereby the learned family Court has
allowed application under section 125 of the criminal
procedure code. Copy of order dated 28.09.2013 is being

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filed herewith as Annexure A-1. Hence the applicant
prefers this memorandum of revision on the following facts
and grounds.



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Justice P. Sam Koshy

Criminal Revision No. 725 of 2013

Applicant

Dewanand Sahu

VERSUS

Non-applicant

Smt. Ganga Bai

Shri R. S. Patel, counsel for the applicant.
None for the non-applicant.

**CRIMINAL REVISION UNDER SECTION 19 (4) OF THE
FAMILY COURTS ACT 1984**

O R D E R

(31.01.2014)

By way of the instant revision, the applicant has challenged the order dated 28.09.2013 passed by the Family Court Dhamtari in Misc. Case No. 08/2013 whereby the learned Family Judge allowing the application filed by the applicant under Section 125 of the Code of Criminal Procedure has granted maintenance of Rs.700 per month to the non-applicant.

2. The sole contention of the counsel for the applicant is that the Family Court ought to have considered the fact that the non-applicant had left the matrimonial house almost 24 years back and that if the non-applicant could sustain herself for 24 years, there is no need of any amount towards maintenance. In support of his contention counsel for the applicant has placed his reliance upon the decision of this Court in the matter of Shiv Kumar Yadav Vs. Smt. Santhoshi Yadav, 2004 L.T. (C.G.).

3. On going through the contents of the judgment passed by the Court below, the admitted fact which has come on record is that the applicant has married another lady and from the said alleged second marriage he has also three children. The applicant has contended that since the non-applicant after leaving the matrimonial house did not return back for a long time, he was left with no other option but to marry a second lady as is evident from Paragraph-4 of the finding of the trial Court.

4. Further, the facts of the judgment passed by this Court in the case of Shiv Kumar Yadav (supra) is entirely different from that of this case because in the said case finding of this Court was that the husband has been able to establish the fact that the wife is residing separately without any reason whereas in the instant case there are sufficient evidence against the applicant. In the instant case, the applicant is residing with a second lady and there are also three children born to them and this fact by itself is sufficient for any lady to leave her matrimonial house. Only for the reason that she had not claimed any maintenance from her husband for the past so many years by itself will not be a good ground for denying the non-applicant the maintenance. Moreover, the applicant had never taken any legal remedy for direction against the non-applicant for staying with him by moving appropriate application for restitution of conjugal rights etc.

5. In view of the same in my opinion the finding arrived at by the Court below is just, legal and proper and the judgment



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passed by this Court in the case of Shiv Kumar (Supra) would not be applicable in the instant case.

6. Consequently, the revision being devoid of any substance is liable to be dismissed and it is dismissed as such.

Sd/-
P. Sam Koshy
Judge