

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 477 OF 2016

Uttam S/o Ganesh Ram Shrivasa, Aged About 38 Years R/o Village Singarpur, Tahsil Bhatapara, Police Station Bhatapara, District Baloda Bazar, Chhattisgarh.

... Petitioner

Versus

1. Jamuna W/o Uttam Shrivasa Aged About 35 Years
2. Minor Jaishri S/o Uttam Shrivasa Aged About 9 Years
3. Minor Kumari Uma D/o Uttam Shrivasa Aged About 6 Years

No. 2 & 3 minor through legal Guardian Mother Jamuna W/o Uttam Shrivasa,

All R/o K.K. Ward, Bhatapara, Tahsil Bhatapara, Police Station Bhatapara, District Baloda Bazar, Chhattisgarh.

... Respondents

For Petitioner	:	Shri Manoj Mishra, Advocate.
For Respondents	:	Shri HB Agrawal, Sr. Advocate with Smt. Meera Jaiswal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/07/2016

1. By way of this petition under Section 482 CrPC the petitioner has challenged the order dated 25.02.2016 passed in Criminal Revision No.H-18/2015 whereby the revision preferred by the respondent-wife has been allowed. While allowing the revision petition, the revisional court has granted maintenance amount to the respondent No.1 to the tune of Rs.1000/- and Rs. 600/- each to respondents No.2&3, totaling Rs.2200/-per month.
2. Learned counsel appearing for the petitioner submits that it is a case where initially the trial court has rejected the claim of the respondent-wife on the ground that she has not been able to

establish her valid and proper marriage with the petitioner. He further submits that inspite of the fact that petitioner had been proceeded exparte, yet the court below found that there was no proof of marriage between the petitioner and the respondent No.1. There is no evidence to the effect that the petitioner and the respondent No.1 were living together for a long time as cohabiting partner. Therefore, in the absence of any evidence, the finding of the trial court was just and proper, however, the revisional court has not properly appreciated the facts and has reversed the order passed by the trial court by granting maintenance amount as mentioned in the paragraph-1 of this order.

3. He further makes a statement that there is no evidence whatsoever brought on record to substantiate the fact that marriage did take place between the petitioner and the respondent No.1. It is further submitted that it is hard to believe that a person who resides at Nipaniya would come to Bilaspur and perform marriage at Kali Mandir, Bilaspur. This fact has not been taken into consideration by the revisional court while allowing the revision petition. Thus, prayed for quashing of the impugned order.
4. In the alternative, it is also submitted that the matter may be remitted back for fresh adjudication.
5. Learned counsel appearing for the respondents, however, objected the same holding that the findings of the revisional court is proper, just and legal and it has been passed on the basis of evidence which have come on record. According to him, the revisional court

did take into consideration the evidence which had been led on behalf of the respondent-wife. It is also submitted that PW-2, Basant and PW-3, Santosh Kumar who were the co-villagers of the same vicinity have made statement that petitioner and the respondent No.1 had stayed together as Husband and Wife. They had also supported the contentions of the respondent-wife of having witnessed the marriage of the two and they were also invitees in the marriage ceremony. In addition, the court below has also taken note of the evidence of the sister of the respondent-wife i.e. PW-4, Sushma who also has supported the deposition given by PW-2, Basant and PW-3, Santosh Kumar.

6. Having considered the contentions put forth by the parties and having perused the record, what is an admitted position from the record is that statement of respondent-wife has been duly supported by the neighbors of that vicinity i.e. PW-2, Basant and PW-3, Santosh Kumar. Both of them have deposed that they have witnessed the petitioner and the respondent No.1 staying as Husband and Wife and also the fact that they had attended their marriage while they were residing at Nipaniya.
7. The said deposition of PW-2 & PW-3 has further been corroborated by the deposition of PW-4, Sushma, who has also made the same statement with regard to relationship between the petitioner and respondent No.1 and also to the fact that their marriage took place at Kali Mandir, Bilaspur.

8. In view of above specific fact which has been taken into consideration by the revisional court coupled with the fact that evidence whatsoever led by the petitioner, who inspite of valid service before the trial court has not entered and submit his reply chose not to contest the case any further, therefore, in the absence of any evidence deliberately not led by him, this court is inclined to accept the view taken by the revisional court while allowing the revision petition of the respondents.
9. Considering the above factual matrix of the case under which the revisional court has allowed the revision, in the opinion of this court no strong and good case is made out by petitioner calling for interference with the impugned order.
10. Accordingly, the petition under Section 482 CrPC fails and is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE