

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 530 OF 2016

Lambodar Das Mahant, S/o Dilchandra Mahant, aged about 33 years, R/o Village Dhamani, Post Hasaud, District Janjgir-Champa (C.G.)

... Applicant

Versus

Smt. Kalpana Manikpuri, W/o Lambodar Das Mahant, aged about 27 years, R/o Purani Basti, Kohadiya, Korba, Tahsil and District Korba (C.G.)

... Non-applicant

For Applicant : Mr. Yogesh Kumar Chandra, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/06/2016

1. Challenge in the present criminal revision is to the order dated 21.5.2015 passed by the Family Court, Korba in M.J.C. No. 172 of 2014.
2. Vide impugned order dated 21.5.2015, the Court below had in a proceeding under Section 125 of CrPC allowed the application and ordered for payment of Rs.3000/- per month as maintenance amount payable by the Applicant to the Non-applicant being his wife.
3. Heard on I.A. No.1 of 2016, application for condonation of delay in filing the present criminal revision.
4. A perusal of the record shows that there is a delay of 256 days in filing the present criminal revision before this Court.
5. Counsel for the Applicant submits that the Applicant is a poor rustic villager and is a layman not aware of the legal provisions of law and the limitation period for challenging the order passed in the proceedings under Section 125 of CrPC. Thus has prayed for condoning the delay in the filing of the present criminal revision.

6. Except for the vague and bald averment of the Applicant being a layman and ignorant of the law of limitation, the I.A. No.1 seeking condonation of delay does not give any plausible and satisfactory explanation.

7. It is also not the case of the Applicant that he was not aware of the order of maintenance passed by the Court below.

8. However, from the record it appears that the order impugned is a bipartite order where the Applicant had participated in the entire proceedings. Record further shows that subsequent to the impugned order being passed, the Applicant had initiated another proceeding under Section 9 of the Hindu Marriage Act against the Non-applicant and was able to be successful in getting an order in his favour on 10.2.2016. Now subsequent to the order dated 10.2.2016 passed in his favour in the proceeding under Section 9 of the Hindu Marriage Act, the Applicant has now filed the present criminal revision seeking for quashment of the order dated 21.5.2015 on 16.5.2016.

9. The very fact that the Applicant had been pursuing other legal remedy under the Hindu Marriage Act itself shows that the Applicant was quite aware of the legal proceedings and provisions and that the explanation shown in the I.A. No.1 cannot be accepted to be satisfactory for condoning the inordinate, unexplained delay of more than 250 days. The Applicant cannot be permitted to take a defence of a proceeding drawn subsequently and an order obtained therein, much after the impugned order having been passed, only for challenging the order dated 21.5.2015 which is an order for grant of maintenance to the Non-applicant.

10. As the Applicant has not been able to satisfactorily explain the delay caused in filing the present criminal revision, particularly in the light of the fact that he subsequently initiated other legal remedies under the other provisions of law, in the opinion of this Court, it is not a fit case for condoning the delay in filing the present criminal revision.

11. I.A. No.1 accordingly is rejected. As a consequence, the criminal revision stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/