

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 585 of 2016

- Santoshi Sahu, W/o Ishwar Sahu, Aged About 29 Years, R/o Sanjay Nagar, Ward No. 03, Supela, P.S. - Supela, Tehsil & Distt. - Durg Chhattisgarh

---- Applicant

Versus

- Ishwar Sahu S/o Tirat Sahu, Aged About 38 Years R/o Mouriya Badi, Near Shradha Suman School, Indravati Nagar, Kohkha, P.S. - Supela, Bhilai, Tehsil & Distt. - Durg Chhattisgarh

---- Respondent

For Applicant : Ms. Meenu Banerjee, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board By

28/06/2016

1. Heard on I.A. No.1, which is an application for condonation of delay in filing the revision.
2. On due consideration and the reason assigned in the application, the delay of 17 days is condoned.
3. Also heard on admission.
4. By way of the present revision petition the applicant is assailing the order dated 05/03/2016 passed by the III Additional Principal Judge, Family Court, Durg in Miscellaneous Criminal Case No. 493/14, whereby the Court below had rejected the application of the present applicant under Section 125 of Cr.P.C. seeking maintenance from the non-applicant.
5. Counsel for the applicant submits that the Court below has committed error of law as well as on facts for the reason that the Court below has failed to appreciate that there was no proper evidence adduced by the non-applicant

to show that firstly the present applicant was living in adultery and secondly she has been living as a wife of another person namely Amit Sen. She further submits that the non-applicant also did not adduced the evidence to establish that the present applicant was staying with Amit Sen as his wife. It was further alleged that the Court below did not take into consideration the provisions of the Evidence Act so far as the nature of evidence adduced by the non-applicant and therefore the order deserves to be set-aside/quashed. However, perusal of the impugned order itself very clearly shows that the contention which has been raised by the counsel for the applicant has been duly considered by the Court below and in the course of evidence the non-applicant has been able to produce documents in respect of the present applicant deserting the Non-applicant and staying with another person namely Amit Sen. Further the record also shows that the non-applicant has also adduced the evidence on record produced before the police station , outpost, Smriti Nagar (Ex.P/3) dated 04/04/2012 wherein it has been stated that present applicant is staying with one Amit Sen and they have got themselves married at Dongargarh temple, since then they are living as husband and wife. Further in the course of the evidence present applicant herself admitted the fact in the cross-examination that present non-applicant had filed missing report with the Police after she had left the matrimonial home and subsequently on the basis of the said report the present applicant along with Amit Sen and one Shobhram Sahu had appeared before the Police authority. In addition to non-applicant witness No. 2 has also been examined before the Court below and who in his evidence has categorically accepted of putting his signature on Ex. P/1 and P/2 which establishes the relationship that the applicant had with one Amit Sen.

6. Considering the specific finding of the Court below in respect of the applicant deserting her husband and staying with one Amit Sen, this Court is of the opinion that no good case is made out for interfering with the impugned order. The Court below has not committed any error of law while

rejecting the claim application of the present applicant. Accordingly, the present revision petition devoid of merits and it is hereby dismissed.

Sd/-

(P.Sam Koshy)
Judge

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