

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 950 of 2016

Raju Kashyap S/o Ashok Kashyap, aged about 32 years, R/o Ambedkar Chowk, Sorit Nagar, Bharripara, Dhamtari, Police Station City Kotwali, Tehsil & District Dhamtari, Chhattisgarh

---- Applicant

Versus

1. Smt. Santoshi Kashyap W/o Shri Raju Kashyap, aged about 24 years, R/o Ashok Nagar, Near Vidyut Sub - Station, Sarkanda, Police Station Sarkanda, Tehsil & District Bilaspur, Chhattisgarh
2. Ku. Himanshi Kashyap D/o. Raju Kashyap, aged about 3 years minor through her natural mother Smt. Santoshi Kashyap W/o. Shri Raju Kashyap, aged about 24 years R/o Ashok Nagar, Near Vidyut Sub - Station, Sarkanda, Police Station Sarkanda, Tehsil & District Bilaspur Chhattisgarh

---- Respondents

For Applicants : Shri Y. C. Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

29/11/2016

The present revision petition has been filed against the order dated 03.09.2016 passed by the Principal Judge, Family Court, Bilaspur in M.J.C. No. 850 of 2015 whereby the Family Court has rejected the objection of the applicant regarding the jurisdiction of the Family Court, Bilaspur in entertaining the claim application of the respondents.

2. The relevant facts for adjudication of the present revision are that the respondents in the instant case filed an application under Section 125 of CrPC seeking maintenance against the applicant at Family Court, Bilaspur which was registered as M.J.C. No. 850/2015. In the said case notice was issued to the applicant who in turn entered appearance and filed his preliminary objection of the Bilaspur Court not having jurisdiction to entertain the application as the respondent-wife is a resident of Raipur. The

contention of the applicant was that there are other litigations also between the applicant and the respondent-wife and in all those proceedings, the respondent-wife is prosecuting her case accepting her residence to be at Raipur. Further contention of the applicant was that the respondent-wife is also taking expenses incurred while travelling from Raipur to Dhamtari for the purpose of contesting the case at Dhamtari. All these relevant facts, according to the applicant, were sufficient material for accepting his preliminary objection and for rejecting the application of the respondents for want of jurisdiction.

3. Perusal of the record would show that the Court below has taken into consideration the objections put forth by the applicant but refused to dismiss the claim case at the threshold on the ground of jurisdiction by making an observation that this fact would be considered at the time of finally deciding the case. Hence, the present revision has been filed.

4. Counsel for the applicant submits that the Court below ought to have taken into consideration all the material information that were along with the preliminary objection by which it could be established that the respondent-wife was in fact residing at Raipur not at Bilaspur and the proceeding under Section 125 CrPC has been filed at Bilaspur only with a *mala fide* intention of harassing the applicant. He further submits that the documents pertaining to the other litigations pending between the parties clearly demonstrate that the respondent-wife is in fact residing at Raipur and not at Bilaspur and therefore, the Court below has committed an error of law in not accepting the objection of the applicant and entertaining the claim case for final adjudication.

5. Having considered the contentions put forth by the counsel for the applicant this Court is of the opinion that the Court below has not committed any illegality or infirmity in refusing to entertain the objection of the applicant

at the threshold particularly when the Court below itself has made an observation that the objection of the applicant shall be considered at the time of final adjudication of the claim case.

6. Even otherwise, in the opinion of this Court, the contention put forth by the counsel for the applicant so far as the jurisdiction of the Court at Bilaspur is concerned is a matter which can be decided only after the evidence is adduced by the either party. In addition, the possibility of the respondents having changed their residence from Raipur to Bilaspur and thereafter they having initiated the proceedings under Section 125 of CrPC cannot be ruled out. In case, the applicant disputes the residence of the respondents to be at Bilaspur, it can only be decided by leading strong cogent evidence against the respondent-wife and the applicant would have to adduce evidence to the effect that the respondent-wife is not at the moment residing at Bilaspur and permanently resides at Raipur for the Court to take strong cognizance of the same and pass an appropriate order while finally adjudicating upon the matter.

7. For the foregoing reasons, this Court is of the opinion that no strong case is made out calling for interference with the impugned order. Thus, the present Criminal Revision being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE