

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 1011 of 2016**

Durdeshi son of Mehatar Verma, aged about 50 years, R/o village Marutola,
Khurd, Tahsil Khairagarh, District Rajnandgaon, CG

---- Applicant**Versus**

Smt. Puniya Bai wife of Shri Durdeshi Verma, R/o Muhdabari, PS and Tahsil
Khairagarh, District Rajnandgaon, CG

---- Respondent

For Applicant : Shri Ankul Biswas, Advocate.

Hon'ble Shri Justice P.Sam Koshy**Order On Board****03/11/2016**

The petitioner through the present petition under Section 19 (4) of the Family Court Act has assailed the judgment of the Family Court, Camp Court Khairagarh, District Rajnandgaon passed in Misc. Criminal Case No. 37 of 2015 dated 07.10.2016 whereby the Court below in a proceeding under Section 125 CrPC has directed the applicant-husband for payment of Rs.2,000/- per month as maintenance to the respondent-wife.

2. Counsel for the applicant submits that it is a case where after marriage of the respondent-wife with the applicant about 27 years ago she had stayed with the applicant only for 8-10 days and thereafter voluntarily left the matrimonial home without any justified reason. Counsel for the applicant further assails the impugned order on the ground that the Court below has not appreciated the fact that the claim application for maintenance was filed by the wife after about 25 years of her marriage

and therefore, only on the ground of delay, the application seeking maintenance by the respondent ought to have been rejected. Counsel for the applicant further submits that the Court below has not considered the exact source of income of the applicant before finalizing the amount of maintenance to be Rs.2,000/- per month. He submits that there was also a village meeting held and the document of which is Ex. P-2 which would clearly reflect that in spite of best efforts the respondent was not coming to cohabit with the applicant. He further submits that the conduct of the respondent-wife taking an adamant approach of not staying with the applicant forced him into another marriage in the year 1989 for which he cannot be faulted. Counsel for the applicant referred to Ex.P-2 to show that the respondent was not willing to stay with the applicant. For all these reasons prayed for setting aside of the impugned order.

3. However, a perusal of the impugned order clearly reflects that it is not in dispute that the applicant and the respondent was husband and wife and were married somewhere in the year 1984. It is also not in dispute that the said marriage has not been dissolved by way of any divorce proceeding instituted by the applicant before any Court of law. Another undisputed fact is that the respondent is still enjoying the status of a legally wedded wife of the applicant and they have a son born from the relations that the applicant had with the respondent. Another undisputed fact which strengthens the claim of the respondent is the second marriage of the applicant with one Bitawan Bai whom he has accepted of having kept her as wife since 1989 onwards.

4. If all these aforesaid facts taken into consideration, it is evidently clear that the respondent has sufficient reason for not coming back to her matrimonial home because of the second marriage of the applicant with the said Bitawan Bai. Further, as long as the marriage of the applicant with the respondent is not finally dissolved by

any legal proceeding drawn for divorce under the provisions of law, the marriage still survives and sustains and the respondent would continuously enjoy the status of legally wedded wife of the applicant.

5. In the given facts and circumstances of the case where the status of the respondent is a legally wedded wife of the applicant and the applicant has already entered into relationship with another lady and is staying with her as husband and wife, the respondent i.e. the legally wedded wife would be entitled for maintenance from her husband.

6. So far as the respondent not claiming maintenance for about 26-27 years is concerned, the same would not be a factor for dis-entitlement of her maintenance for the reason that she was able to maintain herself for the said period and it is only when she was not able to maintain herself she moved an application for maintenance.

7. Further, the amount of Rs.2,000/- awarded by the Court below as maintenance in favour of the respondent under any circumstances cannot be said to be exorbitant or on the higher side as the said amount is merely sufficient for a person to maintain himself.

8. For the foregoing reasons, this Court does not find any strong case made out calling for interference with the impugned order. Accordingly, the present Criminal Revision being devoid of merit stands dismissed.

Sd/-
(P.Sam Koshy)
JUDGE