

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 273 of 2016**

Smt. Sona Bai aged about 62 years, W/o Lallu Prasad Bareth, resident of village Sindhipara, Siwni (Champa), PS & Tahsil Champa, District Janjgir-Champa, Chhattisgarh.

---- Applicant

Versus

Lallu Prasad aged about 65 years, Son of Puniram, Caste Bareth, resident of village Bhurkadih, PS Baradwar, Tahsil Champa, District Janjgir-Champa, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ritesh Verma, Advocate
For Respondent	:	Shri N. K. Chatterjee, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27/06/2016**

Heard on I.A. No.01/16, application for condonation of delay in filing the criminal revision.

2. On due consideration, the reasons assigned in the application, I.A. No.01 is allowed and the delay in filing the criminal revision is condoned.

3. Present is a revision petition preferred by the applicant against the order dated 14.12.2015 passed in MCC No. 43/15 by the Family Court Janjgir-Champa whereby the Court below has rejected the application under Section 125 CrPC preferred by the applicant against the respondent.

4. Counsel for the applicant submits that the Court below has not properly appreciated the facts and circumstances of the case while rejecting the claim of the applicant. He submits that the Court below has failed to take note of the fact that there was a compromise that took place between the applicant and the respondent in the year 2000 before a Lok

Adalat wherein it was agreed between the parties that the applicant as well as the respondent would take care of one child each and they would live separately and sustain themselves without depending upon each other. Now, the applicant is not keeping good health and that her health condition is deteriorating on account of the age factor and therefore she moved the application under Section 125 CrPC seeking for grant of maintenance. According to the counsel for the applicant, there is no reason why the respondent should not take care of the applicant particularly when the applicant is admittedly his wife and it is the duty of the respondent to pay some amount as maintenance to the applicant looking to her physical as well as financial condition.

5. Opposing the revision petition, counsel appearing for the respondent submits that from the evidence itself what has come out before the Court below is that the income of the applicant is only Rs.15,000/- per annum and if the said amount is converted into monthly income, it would roughly come to Rs.1,250/- per month and the said amount is too meager to sustain the respondent himself, therefore, counsel for the respondent prayed for rejection of the revision.

6. Taking into consideration the submissions put forth by the counsel appearing on either side and on perusal of the record, the admitted position is that there was a case under Section 125 CrPC between the parties as early as in the year 2000 and the dispute was resolved amicably in Lok Adalat whereby the parties had agreed for living separately along with one child each. It was also agreed that the applicant would not take any maintenance from the respondent and would be sustaining herself of her own. It has also come on evidence that the two children born to them are well settled and married. Now, the applicant, after 15 years from the earlier compromise moved an application for maintenance. The Court below has relied upon a judgment passed by the Kerla High Court in the

case of Mugappa Vs. Smt. Muniamma, 2003 (3) D.M.C. 188 wherein the Kerla High Court had refused to grant an order of maintenance to the applicant. However, in the said case, it was also directed that the applicant shall be at liberty to initiate appropriate proceeding for maintenance from her children. The Court below taking into consideration the principles laid down in the said case and also the financial status of the respondent vide the impugned order dated 14.12.2015 rejected the application under Section 125 of CrPC preferred by the applicant. Thus, in the opinion of this Court, it is not an order which can be said to be contrary to the evidence on record or there is any error of law or on facts committed by the Court below in passing the said order.

7. Accordingly, the instant criminal revision being devoid of merit deserves to be and is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE