

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 278 of 2016**

Jaidev Manihari S/o Amrat Manihari, aged about 28 years, occup-
Pots, R/o Village- Rajpur (Basanpara), PS Lailunga, Civil &
Revenue District Raigarh, Chhattisgarh.

---- Applicant

Versus

Smt. Kamala Bai W/o Jaidev Manihari, aged about 22 years, Caste
Kharra, R/o Village- Rajpur (Basanpara), PS Lailunga, District
Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Rina Singh , Advocate
For Respondent	:	Shri H. S. Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21/06/2016**

By way of the present revision the applicant has challenged the order dated 18.02.2016 passed by the Family Court, Raigarh in Miscellaneous Criminal Case No. F-39/2015 whereby the Court below in a proceeding under Section 125 CrPC has directed the applicant to pay an amount of Rs.1,500 per month as maintenance to the respondent.

2. According to the applicant, the impugned order is bad in law to the extent that the Court below has not appreciated the evidence which has been led by him in its correct perspective and has wrongly granted maintenance to the respondent. Counsel for the applicant submits that the Court below has also not appreciated the fact that the applicant was already a married man and there was no official divorce taken place between the applicant and his first wife, therefore, the respondent could not have got the status of wife for grant of maintenance under the provisions of Section 125 CrPC. She further submits that the respondent

and her witnesses have categorically stated this fact before the Court below by way of evidence but it has not been appreciated by the Court below. Hence, prays for setting aside of the impugned order.

3. Counsel appearing for the respondent denies all the contentions and prays that the impugned order does not warrant any interference. He submits that the Court below has already considered all the contentions put forth by the applicant in the instant revision petition and passed a speaking order. According to the respondent, there is a specific admission on the part of the applicant that he kept the respondent as his wife knowing fully well that his first wife had left him. The applicant has also accepted the fact that he had married the present respondent but considered her to be the second wife which itself is a sufficient indication that the applicant, in fact, at some point of time had accepted the respondent as his wife for a considerable period and also gave her all the status of a wife. In such a situation when she was compelled to leave her matrimonial home i.e. the applicant's home and stay separately, the respondent is therefore entitled for maintenance. Hence, counsel for the respondent prayed for rejection of the revision petition.

4. Considering the rival submissions put forth by the counsel appearing on either side and on perusal of the record what reflects is that either of the parties agree to the fact that they had married to each other. The only defence which the applicant is taking is that he was already a married man and there was no official divorce taken place between him and his first wife and therefore the respondent would lose her status of wife. However, there is ample material in the evidence brought on record to safely draw an inference that the applicant had married the respondent and there is an averment made by the respondent that it is only after she had come to the house of the applicant she came to know that the applicant was already a married man. It is further the finding of the Court

below that the evidence which has come on record sufficiently shows that the respondent having left her matrimonial home under the aforementioned compelled circumstances, she would be entitled for the maintenance. So far as the quantum of the maintenance is concerned, there is no dispute from either of the parties of the said amount to be less or the amount so awarded is exorbitant.

5. Thus, in the opinion of this Court, the Court below has not committed any error of law or illegality while reaching to the conclusion and allowing the application under Section 125 CrPC in favour of the respondent.

6. Accordingly, the present criminal Revision being devoid of merit deserves to be and is dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**