

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 499 of 2016**

Xavier Ekka S/o Anjalus Ekka, aged about 32 years, Occupation Government Servant, Panchayat Teacher, P. T. I. Govt. High School Indauri, Civil and Revenue District Kabirdham (Chhattisgarh), Permanent Address - Village Suijor, Post Lathbora, Police Station Tapkara, Civil and Revenue District Jashpur (Chhattisgarh), Present Address - Village Bhagutola, Police Station & Tahsil Kawardha, Civil and Revenue District Kabirdham (Chhattisgarh)

---- Applicant

Versus

Vineeta Minj W/o Xavier Ekka, aged about 31 years, Occupation House Wife, R/o Gamhar Kona, Police Station Sanna, Civil and Revenue District Jashpur (Chhattisgarh), Present Address - Village Bhagutola, Police Station & Tahsil Kawardha, Civil and Revenue District Kabirdham (Chhattisgarh)

---- Respondent

For Applicant : Shri Dharmesh Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13/06/2016**

By way of the present revision petition the applicant has challenged the order dated 30.03.2016 passed by the Family Court, Kabirdham (Kawardha) in M.C.C. No. 640/15 whereby the Court below has allowed an application under Section 125 of CrPC moved by the respondent and ordered for payment of Rs.4,000/- as monthly maintenance to the respondent by the applicant.

2. Counsel for the applicant submits that the impugned order is bad in law for the reason that the Court below has failed to appreciate the fact that the respondent in the present case is not a legally wedded wife of the applicant and therefore, the Court below could not have entertained the application under Section 125 CrPC. He submits that the Court below has also awarded the maintenance amount on the higher side. He further

submits that the court below has also failed to appreciate the fact that the respondent had left the company of the applicant without any justifiable reason and therefore also she is not entitled for any maintenance.

3. However, on perusal of the record would clearly reflect that the applicant in his reply in 125 CrPC proceeding had not taken the stand of the respondent not being his legally wedded wife. On the contrary, in his reply the applicant has denied the allegations and contentions taken by the respondent-wife and has said that he had always taken care of his wife lovingly and affectionately. Since the ground of marriage at the first instance has not been taken by the applicant in his reply in 125 CrPC proceedings, this Court is of the opinion that the applicant cannot raise the said ground in a revisional proceeding.

4. So far as the ground of leaving company of the applicant is concerned, the evidence which has come on record reflects that the character of the applicant was not very appreciable as he was having affair with another lady and by virtue of the said illicit relationship he used to avoid the respondent. From the evidence of the applicant also it has come on record that at times he used to consume the entire salary for his personal need which itself is sufficient that there was negligence on the part of the applicant in maintaining the respondent. Thus, the impugned order cannot be faulted or said to be bad in law nor it can be said to be perverse.

5. In view of the aforesaid factual background, the impugned order does not call for any interference and the present Criminal Revision being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE