

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 801 of 2016**

- Jaishri Dadsena W/o Govind Dadsena Aged About 19 Years R/o. Village Badetemari, P.S. Basna, District Mahasamund Chhattisgarh

---- Applicant**Versus**

- Govind Dadsena S/o Sonuram Dadsena Aged About 30 Years R/o Village Ravanbhatha, Pithora, P.S. Pithora, District Mahasamund Chhattisgarh At Present Constable No. 1099 Pakhanjur, P.S. & Tahsil Pakhanjur, District Kanker Chhattisgarh

---- Non-applicant

For Applicant : Mr. Shikhar Sharma, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****05/09/2016**

1. Heard on I.A. No. 1 / 2016 which is an application for condonation of delay.
2. On due consideration and perusal of the application and also taking note of the fact that there is only 1 day delay in filing the present Revision Petition, this Court is of the opinion that the present is a fit case where the I.A No.1 deserves to be and is accordingly allowed. Delay of one day stands condoned.
3. Also, heard on admission.
4. By way of the present Revision Petition the Applicant intends to challenge the order dated 11.05.2016 passed by the Family Court, Mahasamund in Misc. Criminal Case No. 113/2015. Vide the said

impugned order the Family Court in a proceeding under Section 125 CrPC initiated by the present Applicant against the Non-applicant for maintenance has been rejected.

5. Learned Counsel for the Applicant assailing the said order submits that the Court below has failed to appreciate the evidence which the Applicant has brought on record and it has also failed to appreciate the fact that the proceeding under Section 125 CrPC is a liberal legislation and therefore Court below ought to have considered the claim of the Applicant.
6. The Counsel for the Applicant further assailing the impugned order submits that the Court below failed to appreciate the evidence which the Applicant has produced that of her uncle, therefore for this reason the order of the Court below is bad in law and deserves to be interfered with.
7. Having considered the total facts and circumstances of the case and also a perusal of the record, in the instant case except for the ocular evidence produced by the Applicant herself there is no evidence to substantiate the contention that she has made in her evidence. There is a categorical finding of the Court below that the Applicant has not proved cruelty, harassment and torture given by the Non-applicant husband to her in any manner. The finding of the Court below is that there is no complaint whatsoever before any authority be it a local administration, or even before the police authorities in the respect of ill-treatment, torture and harassment amounting to cruelty made by the Non-applicant husband to the Applicant wife.
8. The Court below has further taken into consideration that even the

mother and father of the Applicant themselves have not come forward to lead evidence in support of the Applicant whereas there is an affidavit of the mother and father of the applicant given in favour of the husband. All these facts have been cumulatively taken into consideration by the Court below while rejecting the claim application.

9. True it is that provision under Section 125 of the CrPC is a liberal legislation, that does not mean that the proceedings under Section 125 CrPC has to be allowed without even there being any cogent evidence on behalf of claimant.
10. A perusal of the impugned judgment clearly reflects that in the proceeding before the Court below the claimant has specifically not been able to substantiate her claim by firstly establishing cruelty, harassment and torture at the hands of the Non-applicant and secondly substantiating with justifiable reasons why she left the matrimonial home and staying separately. In absence of these two main vital ingredients, this Court is of the opinion that there is no illegality or infirmity on part of the Court below in reaching to the conclusion while rejecting the claim application.
11. The Revision Petition accordingly being devoid of merits, stand dismissed.

Sd/-

(P. Sam Koshy)
JUDGE