

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Miscellaneous Petition No. 1057 of 2016**

Smt. Komal Yadav wife of Keshav Yadav, aged about 29 years, R/o Kasturba Nagar Sindhi Colony, Bilaspur, District Bilaspur (CG)

---- Petitioner**Versus**

Keshav Prasad Yadav, son of Sant Lal Yadav, aged about 33 years, R/o Dahibahara, Navatola, Post Andhiarkhoy, P.S. Gourela, District Bilaspur (CG)

---- Respondent

For Petitioner : Shri Anukul Biswas, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/09/2016**

Challenge in the present petition is the order dated 18.07.2016 passed by the Additional Sessions Judge, Pendra Road, District Bilaspur in Criminal Revision No. H-02/2016 whereby the Court below exercising its revisional powers has confirmed the order dated 22.12.2015 passed by the JMFC, Pendra Road.

2. By the order dated 22.12.2015, the JMFC, Pendra Road in a proceeding under Section 125 CrPC had rejected the claim application of the petitioner for grant of maintenance from the respondent. The said order dated 22.12.2015 was challenged by way of a criminal revision which stood rejected vide order dated 18.07.2016 leading to the filing of the present petition under Section 482 of CrPC.

3. The rejection of the claim application by the JMFC, Pendra Road at the first instance was on the ground that the petitioner had already in the year 2007 initiated a proceeding before the Family Court, Bilaspur under

Section 125 CrPC against the respondent which stood rejected. However, the Family Court vide its order dated 23.07.2009 then had granted maintenance of Rs.1,000/- per month only to the child born to the petitioner which was accepted between the parties and the respondent is still paying the same without any default and there is no further claim made by the said minor. According to the JMFC, since the claim of the petitioner at the first instance was rejected and she has not agitated the said order before any higher Court and the same has attained finality, the petitioner could not initiate a fresh proceeding under Section 125 CrPC for grant of maintenance.

4. Likewise, there is another order passed by the First Track Court, Pendra Road on 09.12.2008 wherein there is a categorical finding that there was no legal marriage performed between the petitioner and the respondent. This being the finding of the First Track Court and which again has not been challenged in any higher Court, the JMFC, Pendra Road thus rejected the application under Section 125 of CrPC preferred by the petitioner.

5. Having heard the counsel for the petitioner and on perusal of the record what clearly reflects is that the application under Section 125 CrPC preferred by the petitioner before the Family Court at Bilaspur was disposed of on 23.07.2009 by way of a settlement/compromise of payment of maintenance only to the child born to the petitioner. However, the claim for maintenance to the petitioner-wife was accordingly denied by the Family Court. Likewise the order of the First Track Court has also attained finality to the extent that there being no legal marriage between the petitioner and the respondent.

6. In the factual background of the said two orders passed firstly by the Family Court, Bilaspur and secondly by the First Track Court, Pendra Road, this Court is of the opinion that there is no illegality or infirmity committed by the JMFC, Pendra Road at the first instance in rejecting the application under Section 125 of CrPC moved by the petitioner vide its order dated 22.12.2015 neither has the Revisional Court committed any error of law while rejecting the revision petition preferred by the petitioner against the order of the JMFC vide the impugned order dated 18.07.2016.

7. Thus, the present CrMP being devoid of merit deserves to be and is accordingly dismissed.

Sd/-

(P Sam Koshy)
Judge