

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1081 of 2016**

- Deepa Raikwar W/o Gaurav Raikwar Aged About 26 Years R/o Pendraroad, Amarkantak Road, Police Station And Tahsil Pendraroad, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

- Gaurav Raikwar S/o Late Madanlal Raikwar Aged About 29 Years R/o Patel Board, Near Chhotibakhar, Shya Talkies Road, Kandeli, Narsinhpur, Civil & Revenue District Narsinhpur (M.P.)

---- Respondent

For PetitionerShri Mayank Chandrakar, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****30/09/2016**

1. The present petition has been preferred by the Petitioner assailing the order dated 28.06.2016 passed by the Additional Sessions Judge, Pendraroad in Criminal Revision No. 55/15 which has arisen out of the order dated 08.09.2015 passed by the Judicial Magistrate, First Class, Pendraroad in Case No. 417/2014.
2. Vide the impugned order the Courts below have rejected the claim of the Petitioner under Section 125 CrP.C. for grant of maintenance.
3. Learned Counsel for the Petitioner submits that the Revisional Court as well as the Magistrate Court have erred in as much as in not

appreciating the fact of the relationship between the Petitioner and the Respondent being that of husband and wife. That she is the legally wedded wife is not in dispute. Further it is also not in dispute that the Petitioner wife was living separately. For these two factors which stands admitted it was necessary on part of the Court below to have granted sufficient amount for maintenance with which the Petitioner could sustain herself.

4. Learned Counsel for the Petitioner further submits that there in the passage of time the relation between the two got strained and with the hope that the relationship between the two would get improved in due course of time she did not lodge any complaint in respect of the cruelty or harassment which she was met with. This aspect ought to have been more liberally considered by the Court below and should have allowed the application under section 125 Cr.P.C.
5. However, on perusal of the impugned order what is clearly reflected is that in fact the Court below had considered the entire evidence which have been come on record in the course of deciding the matter and found that the applicant wife herself in her cross examination has admitted the fact that she had left the matrimonial house along with her brother for appearing in an examination and thereafter she has not returned to her matrimonial home. Further during this period, the Respondent husband in between had initiated proceeding under Section 9 of the Hindu Marriage Act for seeking restitution of conjugal rights, in which the present Petitioner wife has

categorically stated that she does not want to live with the Respondent. Like wise there is also a finding that the Petitioner wife also initiated proceeding under Domestic Violence Act and in which the Court below has initially awarded an amount of Rs. 3,000/- per month as maintenance which has been stayed by the High Court and on these grounds the Court below had rejected the present application under Section 125 of the CrPC.

6. During the Course of the argument it is also learnt that the lower appellate Court has quashed the order passed by the Magistrate Court under the provisions of Domestic Violence Act and this order of the appellant Court has also been challenged by way of a revision petition filed in the High Court.
7. In the opinion of this Court the averments made in the preceeding paragraphs are sufficient to come to a strong inference that there was no justified and plausible reason on the part of the Petitioner to leave the matrimonial home. Thus, this Court does not find any illegality or infirmity on part of the two Courts below in the rejecting the claim application preferred by the Petitioner under Section 125 Cr.P.C..
8. Accordingly, the present Petition being devoid of merits, the same stands dismissed.

Sd/-

**(P. Sam Koshy)
JUDGE**