

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 18 of 2017**

- Shri Madhav Chouhan S/o Late Shriramsai Chouhan Aged About 64 Years Caste- Gada, R/o Village- Kotba (Hospitalpara), Police Chowki Kotba, Tahsil- Pathalgaon, District Jashpur, Chhattisgarh.

---- Applicant**Versus**

- Smt. Sanmati Chouhan W/o Madhav Chouhan, Aged About 40 Years By Caste Gada, R/o Village Kotba, Present Address Village Jambahar, Tahsil Tapkara, District Jashpur, Chhattisgarh.

----Non-applicant

For Applicant: Mr. Awadh Tripathi and Ms. Pritha Ghoshal,
Advocates

For Non-Applicant : Mr. Akhand Pratap, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10.03.2017**

1. Heard on I.A. No.1/2017 which is an application for condonation of delay in filing the Criminal Revision.
2. The present Revision Petition has been preferred against the order dated 13.05.2016 passed in Misc. Criminal Case No. 228/2015. There is a delay of 127 days in filing the present Revision Petition. The only ground that has been raised in the application for condonation of delay is that the present Applicant was not aware of the period of limitation in challenging the order passed by the Family Court. Except for this there is no explanation whatsoever given by the Applicant. He has not disclosed the date on which he came to know about the period of limitation. Though the condonation of delay is not supported by cogent ground specifically nor explaining each days delay yet taking into consideration the

present is a revision against the proceeding under Section 125 of the Cr.P.C. in respect of the decision taken by the Family Court, I.A. No.1 is allowed. The delay of 127 days in filing the present Revision Petition stands condoned.

3. The challenge in the present Writ Petition is the order dated 13.05.2016 passed in Misc. Criminal Case No. 228/2015 whereby in a proceeding under Section 125 of the Cr.P.C. the present Applicant has been ordered to pay monthly maintenance to the Non-applicant at the rate of Rs. 3500/-.
4. Learned Counsel for the Applicant assailing the impugned order submits that there is no justified and satisfactory reason for the Non-applicant to leave her matrimonial home. According to the Applicant he is still ready and willing to keep her along with him but it is the Non-applicant who has taken an adamant stand refusing to stay with the present Applicant. Therefore she would not be entitled for grant of maintenance. She further submits that the ground on the basis of which the application under Section 125 Cr.P.C. has been allowed does not disclose any strong ground raised or proved by the Non-applicant making her entitled for maintenance.
5. However, from the perusal of the record it would show that there is admission on part of the Applicant of accepting the Non-applicant as wife under 'Chudi Vivah' system. It is further admitted fact that in the recent past there was a lodging of a criminal complaint against the Applicant alleging assault on her and the matter was also travelled to the Criminal Court where both the parties had compromised. The said criminal proceeding establishes the fact that some untoward incident has happened which was later on compromised. This itself is

sufficient cause for the Non-applicant to leave the matrimonial home and stay separately.

6. Further from the evidence which have come on record also reflects that the Applicant had chased the Non-Applicant out of her matrimonial house. Further from the record it does not appear that the present Applicant has made any effort for bringing the Non-Appellant wife to stay along with him. Neither is there any village meeting nor proceeding for restitution of conjugal rights etc. made or lodged from his side. In the absence of any such efforts, it is hard to believe what the Applicant has contended.
7. In view of the same, this Court does not find any infirmity or illegality on part of the Court below in reaching to the conclusion that the Applicant is liable to pay an amount of Rs. 3500/- as maintenance to the Non-Applicant taking into consideration his source of income.
8. This Court does not find any merits in the case. Accordingly the present Revision Petition stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE