

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 164 of 2017**

1. Devendra Kumar Dewangan S/o Roopram Dewangan, Aged About 33 Years R/o Village Hasda, Near Karma Mandir, Police Station Berla, Tahsil Bemetara, District Durg Chhattisgarh Now District Bemetara Chhattisgarh

**---- Petitioner**

**Versus**

1. Smt. Leeleshwari Bai Dewangan W/o Devendra Kumar Dewangan, Aged About 29 Years
2. Naman, Aged About 3 Years (Minor) Guardianship of Monther Smt. Leeleshwar Bai Dewangan, R/o Village Kura, Police Station Dharsiwa, Tahsil And District Raipur Chhattisgarh

**---- Respondent**

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For Petitioner : Smt. Ranjana Jaiswal, Advocate

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**Hon'ble Shri Justice Pritinker Diwaker**

**Order On Board**

**06/03/2017**

Challenge in this revision petition is to the order dated 22.11.2016 (Annexure P-1) passed by Principal Judge, Family Court, Raipur in Case No. 361/2015 rejecting the application filed by the applicant under Section 125 (5) of the Code of Criminal Procedure.

2. Applicant does not dispute his relationship with the non applicant. On an application filed by the respondent (wife) under Section 125 of the Code of Criminal Procedure the Family Court, Raipur by order dated 24.12.2013 directed the applicant herein to pay Rs. 3000/- per month to her and Rs. 1,500/- to her minor son (respondent No.2 herein) and pursuant to the said order the applicant is still paying the said amount.

Thereafter, the applicant filed an application under Section 125 (5) of the Code of Criminal Procedure mainly on the ground that respondent No.1 is living separately without there being any reason and as such she is not entitled for any maintenance. Said application however has been rejected by the order impugned.

3. Counsel for the applicant submits that the applicant is willing to give maintenance to respondent No.2 but respondent No.1 is not entitled for the same as she is living separately without any sufficient reason.

4. From the documents on record it is apparent that against the decree of divorce the appeal is pending before this Court. Even otherwise, under Section 125 of the Code of Criminal Procedure even a divorced woman has been included as wife for the purpose of maintenance, and therefore the Court below appears to have been fully justified in rejecting the application filed by the applicant under Section 125 (5) of the Code of Criminal Procedure.

5. Thus the present revision petition does not have any substance and the same is liable to be dismissed. It is accordingly dismissed at the motion stage itself.

Sd/-

(Pritinker Diwaker)

Ag. Chief Justice