

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 437 of 2016**

Shri Shashi Patel S/o Shri Bhogilal Patel, aged 36 years (not mentioned in order impugned) R/o D-4, Vinayak Vihar, Dindayal Upadhyay Nagar, Raipur, Tehsil and Distt. Raipur (CG).

---- Applicant**Versus**

Smt. Rubi Patel W/o Shri Shashi Patel, aged 31 years, R/o Devendra Nagar, Raipur, Tehsil and Distt. Raipur (CG).

---- Respondent

For applicant	:	Shri V.C. Ottalwar, Advocate.
For Respondent	:	Shri Prakash Tiwari, Advocate.

SB:Hon'ble Shri Justice P.Sam Koshy**Order On Board****31/01/2017**

1. The present revision has been preferred assailing the order dated 14.03.2016 passed by the IInd Additional Principal Judge, Family Court, Raipur, in MJC Case No.263/2013. Vide the said impugned order, the application under Section 125(4) CrPC preferred by the applicant-husband has been rejected.
2. The sole contention of the applicant in assailing the order by way of this revision is that, after disposal of MJC Case No.216/2006 on 31.07.2006, the applicant has come to know that respondent-wife was subsequently suffering from some disease known as vaginitis a disease which usually occurs to a person who lives in adultery. The fact that respondent-wife is suffering from said disease is sufficient to draw an inference that she was living an adulterous life and as such

she is not entitled for the maintenance at all in view of provisions of Section 125(4) CrPC. Thus, prayed for quashing of order dated 14.03.2016.

3. Counsel for the respondent-wife however opposes the revision and submits that once when the payment of maintenance itself has not been questioned by the applicant before any forum, the same cannot be re-considered subsequently in a proceeding under Section 125(4) CrPC. It is further submitted that even otherwise, the contents of the application have not been properly established by the applicant before the court below by cogent and proper evidence and for this reason also the court below was justified in rejecting the same.
4. Having considered the submissions put forth by the counsel for the parties and on perusal of records, the findings which have been given by the court below seems to be fair and reasonable on account of fact that the present applicant-husband has not been able to establish as to with whom the respondent is living in adultery neither has he been able to provide details in respect of adulterous life which is alleged against the respondent. The only inference which the applicant is insisting to be drawn is on account of certain ailment or illness which the respondent-wife was suffering, which, in the opinion of this court cannot be an exclusive reason for drawing an adverse inference against the respondent for the stoppage of the order of maintenance which was awarded in favour of the respondent-wife way-back in the year, 2006 i.e. almost 11 years ago. Thus, in the opinion of this court, the impugned order does not warrant any

interference.

5. Accordingly, the revision being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(P.Sam Koshy)

Judge

inder