

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 902 of 2016**

Deepak Kumar Diwakar S/o Chheduram Aged About 27 Years Caste Satnami; R/o Village Jora; Police Chowki Bhatgaon, Tahsil And Police Station Bilaigarh, District (Rev. And Civil) Balodabazar - Bhatapara Chhattisgarh.

---- Applicant**VERSUS**

Smt. Sharda Diwakar W/o Deepak Kumar Diwakar Aged About 22 Years Caste Satnami, R/o Village Jora, Police Chowki Bhatgaon, Tahsil And Police Station Bilaigarh, District (Rev. And Civil) Baloda Bazar Bhatapara Chhattisgarh, At Present Village Kurda, Tahsil And Police Station Malkharauda, District (Rev. And Civil) Janjgir Champa Chhattisgarh.

---- Respondent

 For Applicant

 Shri Vineet Kumar Pandey, Advocate.

Hon'ble Shri Justice P.Sam Koshy**Order On Board****17/01/2017**

1. The present revision has been filed assailing the order dated 14.07.2016 passed by the Family Court, Janjgir Champa, in Misc. Criminal Case No.14/2016. Vide the said order, the court below has rejected the application filed by the applicant seeking for quashment of the proceeding under Section 125 CrPC initiated by the respondent on the ground that the respondent had already initiated proceedings under the provisions of Protection of Women from Domestic Violence Act before the Judicial Magistrate First Class, Malkharoda, where the application for interim maintenance moved by the respondent had already been rejected.
2. Learned counsel appearing for the applicant assails the order on the

ground that both the proceedings are distinct under two statutory authorities and as such both the proceedings cannot be entertained simultaneously as the point of consideration under both the cases are same.

3. A perusal of impugned order itself clearly reflects that it is an interlocutory order by which the preliminary objection raised was rejected by the court below. The court below while rejecting the application has only held that since there is no bar under either of the statutes for a simultaneous proceeding or two parallel proceedings one under Section 125 CrPC and other under the Act, 2005, the case is maintainable.
4. The view as taken by the court below cannot be in any manner said to be illegal or bad for the reason that point for consideration under the Act, 2005 is entirely different and the issue involved also is different. In between if there is an order of interim maintenance granted, that by itself would not be a bar for the wife or for that matter any other person from moving application under Section 125 CrPC which exclusively deals with claim for maintenance. So far objection of the petitioner is concerned, the same can still be taken as an issue while deciding the application under Section 125 CrPC finally.
5. It is also relevant to mention at this juncture that the amount of maintenance which is being given by the applicant to the respondent-wife can also be brought to the notice of the Family Court in the course of evidence as well as in their pleadings and which shall also

be considered by the Family Court while finally deciding the quantum of maintenance. In view of the same, this court is of the opinion that impugned order does not warrant any interference.

6. Accordingly, the revision being bereft of merit is liable to be and is hereby dismissed.

**Sd/-
(P.Sam Koshy)
JUDGE**

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