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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1335 of 2016**

Tevendra Kumar Hirwani, son of J. R. Hirwani, aged about 32 years, Address N.T.P.C. Lara, 40/424, Rajat Shri House, Kotra Road, Raigarh (Chhattisgarh), permanent resident of Village – Khapri (Malighori), Post – Dudhali, P. S. & District – Balod (Chhattisgarh).

----Petitioner
Non-applicant

Versus

1. Smt. Kanti Sahu, wife of Tevendra Kumar Hirwani, aged about 27 years.
2. Jiya Hirwani, Daughter of Tevendra Hirwani, aged about 3 years, minor, represented through mother Smt. Kanti Sahu.

Both are resident of Parijata 17 Lalpuri, Bhilai, P.S. - Bhilai Nagar, District – Durg (Chhattisgarh).

Permanent address:

Both are permanent resident of Bhilai Nagar, Tahsil & District Durg (Chhattisgarh) at present New Bus Stand, Dallirajhara, Police Station – Dallirajhara, District – Durg (Chhattisgarh).

---Respondents
Applicants

For petitioner	: Mr. B. P. Singh, Advocate.
For respondents	: Mr. Atanu Ghosh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07.04.2017

(1) The respondents herein filed an application for grant of maintenance before the Principal Judge, Family Court, Durg stating *inter alia* that they are unable to maintain themselves as they are being neglected by the petitioner herein. The respondent No.1 in the cause title as well as verification stated to be temporary resident

of Parijat-17/Taalpuri Bhilai, Tahsil and District Durg. She also stated her permanent address to be New Bus Stand, Dallirajhara, District Balod.

(2) The petitioner herein has filed this petition under Section 482 Cr.P.C. mainly on the ground that marriage of the petitioner was solemnized with the respondent No. 1 at village - Khapri, District Balod and therefore, Family Court, Durg has no territorial jurisdiction to entertain the application under Section 125 Cr.P.C. and as such the proceeding initiated for grant of maintenance as Family Court, Durg is liable to be quashed.

(3) Mr. B. P. Singh, learned counsel for the petitioner would submit that Family Court, Durg has no jurisdiction to entertain the application under Section 125 Cr.P.C. therefore, the entire proceedings of maintenance initiated and pending at Family Court, Durg deserves to be quashed and he placed reliance upon decisions of the Supreme Court in the matter of **Mst. Jagir Kaur and another v. Jaswant Singh**¹, **Darshan Kumar (Smt) v. Surinder Kumar**² and **Vijay Kumar Prasad v. State of Bihar and others**³.

(4) On the other hand Mr. Atanu Ghosh learned counsel for the respondents would submit that, the respondent No.1 and 2 were residing in Dallirajhara when the application under the Protection for

1 AIR 1963 SC 1521

2 1995 Supp (4) SCC 137

3 (2004) 5 SCC 196

Women from Domestic Violence Act, 2005 was filed and the address given in the application is the permanent address. It is further submitted that thereafter the respondent No.1 shifted to Bhilai and is residing in Parijat-17, Taalpur Bhilai, P.S. Bhilai Nagar, Durg in a rented accommodation along with her sisters who are studying in Bhilai. It is submitted that when in spite of repeated efforts the petitioner refused to maintain respondent No.1 and 2 and application under Section 125 Cr.P.C. was filed in Durg as both of them were residing in the territorial jurisdiction of Family Court, Durg. It is further submitted that from a bare perusal of the application, the description of parties and the affidavit of respondent No.1, it would be crystal clear that the respondent No.1 given both the address *i.e.* the permanent as well as the temporary address, and he lastly submits that, petitioner has not taken any such objection before the Family Court and straightway filed this petition under Section 482 Cr.P.C. before this Court which is not maintainable in law.

(5) I have heard the learned counsel for the parties and considered their rival submission made hereinabove and perused the order impugned with utmost circumspection.

(6) The respondent No.1 and 2 have filed application for maintenance before the Principal Judge, Family Court, Durg giving their temporary as well as permanent address. It appears that petitioner has not raised the plea before the Family Court, that it has no jurisdiction to hear the application for want of territorial

jurisdiction. Since, the respondent No. 1 and 2 have given their temporary residence at Parijat-17, Taalpuri Bhilai, P.S. Bhilai Nagar, Durg in their application filed before that Court, *prima facie* I am not inclined to entertain the present petition as the petitioner has the liberty to raise such a plea before the Family Court, Durg and if such a plea raised before the Principal Judge, Family Court, Durg, that court would do well to decide that objection at appropriate stage strictly in accordance with law.

(7) With the aforesaid observation the petition under Section 482 stands finally disposed off. It is made clear that this Court has not expressed any opinion on merits of the matter and Family Court would decide the dispute on its own merit. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge