

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1117 of 2016

Narayan, son of Mohan Lal Sharma, aged about 30 years, Occupation Truck Driver, R/o Village Boriya, P.S. and Tahsil Bodala, District Kabirdham, Chhattisgarh

---- Applicant

versus

Suman, wife of Narayan Sharma, aged about 24 years, Occupation Housewife, R/o Village Podi, P.S. Bodala, Tahsil Kawardha, District Kabirdham, Chhattisgarh

--- Respondent

For Applicant	:	Shri C.R. Sahu , Advocate
For Respondent	:	Shri Dharmesh Shrivastava, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

13.11.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred against the order dated 30.8.2016 passed by the Family Court, Kabirdham in M.Cr.C. No.333 of 2016, whereby the Family Court has allowed the application moved under Section 125 of the Code of Criminal Procedure and granted monthly maintenance of Rs.2,000/- in favour of the Respondent.
3. It is not in dispute that the Respondent is legally wedded wife of the Applicant. Their marriage was solemnised in November, 2015. As pleaded by the Respondent/wife, when she got pregnant, the Applicant/husband left her at her maternal house saying that he will

take her back after few days, but he did not take her back. He used to say her telephonically that he will perform second marriage and he also used to abuse her on telephone. She is unable to maintain herself. Despite the fact that the Applicant has sufficient means to maintain her, he refused to maintain her. The Applicant/husband, in his reply, has stated that the Respondent/wife was already married with one Pawan Kumar Goswami and without taking divorce from Pawan and concealing this fact, she performed marriage with the Applicant. She herself left her matrimonial house without sufficient and reasonable cause. He has no means to maintain her.

4. Both the parties have adduced their evidence before the Court below. The Respondent/wife has examined herself as Applicant Witness No.1 and her father Ramlal as Applicant Witness No.2. The Applicant/husband has examined himself as Non-Applicant Witness No.1 and also examined one Mantri Giri as Non-Applicant Witness No.2 and Agghan Yadav as Non-Applicant Witness No.3.
5. After appreciation of the evidence available on record, the Family Court, vide the impugned order dated 30.8.2016, has granted monthly maintenance of Rs.2,000/- in favour of the Respondent/wife. Hence, this revision by the Applicant/husband.
6. Shri C.R. Sahu, Learned Counsel appearing for the Applicant/husband submits that despite the fact that the Respondent/wife was earlier married with Pawan Kumar Goswami and without taking divorce from him and concealing this fact she performed marriage with the Applicant, the Family Court has

allowed the application of the Respondent/wife and has granted her maintenance, which is perverse and against law. He further submits that the Respondent/wife herself left the house of the Applicant and is living separately from him without reasonable cause and, therefore, she is not entitled to get any maintenance.

7. Shri Dharmesh Shrivastava, Learned Counsel appearing for the Respondent/wife supports the impugned order.
8. I have heard Learned Counsel appearing for the parties and perused the record of the Court below with due care.
9. From the evidence adduced by the parties, it is clear that their marriage was solemnised in November, 2015. The Respondent/wife denied the fact that she had earlier performed marriage with Pawan Kumar Goswami and also denied that she lived with him as his wife. Her father Ramlal also denied these facts. He has only admitted that a talk of marriage with Pawan Kumar Goswami had taken place and he denied the fact that any marriage of the Respondent was performed with Pawan Kumar Goswami. The Applicant/husband has not adduced any evidence on the basis of which it could be inferred that the Respondent/wife was already married with Pawan Kumar Goswami. Thus, the Applicant/husband has made a false and fabricated allegation against the Respondent/wife. In these circumstances, the Respondent/wife has sufficient cause to reside separately from the Applicant. Thus, on the basis of the evidence adduced by both the parties, the Family Court has rightly allowed the application preferred by the Respondent/wife and granted her maintenance.

10. Consequently, I do not find any merit in the revision. It is, therefore, dismissed.
11. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge