

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 210 of 2018**

Nankudas Manikpuri S/o Samaydas Manikpuri, aged about 50 years R/o. Village- Rasedi, Police Station- Baloudabazar, District- Baloudabazar (C.G.).

--- Applicant**Versus**

Smt. Sakun Manikpuri W/o Nankudas Manikpuri, aged about 37 years, R/o. Old Power House Torwa, Police Station Torwa, District- Bilaspur (C.G.).

---- Respondent

For Applicant	:	Mr. Ajay Kumar Chandra, Advocate
For Respondent	:	Mr. Sudeep Agrawal, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****04/09/2018**

1. With the consent of both the parties, the matter is heard finally.
2. Vide order dated 21/08/2017, the learned Family Court has allowed the application submitted under Section 125 of the Cr.P.C by the respondent/wife and granted a monthly maintenance of Rs. 1000/- in her favour.
3. Being aggrieved with the said order, this revision has been preferred on the grounds that the respondent/wife has been residing separately without reasonable cause for last 22 years and she filed an application under Section 125 of the Cr.P.C after 22 years, which was not maintainable.
4. I have heard the counsel for the parties and perused the records.

5. Admittedly, the respondent is legally wedded wife of the applicant. From the evidence adduced by the parties before the Family Court, it is clear that without obtaining divorce from respondent/wife, the applicant has performed second marriage and presently he is residing with his second wife. Therefore, the respondent/wife had sufficient cause to reside separately from the applicant, and thus the finding of the Family Court in this regard is in accordance with law.
6. Though the respondent/wife has been residing separately from the applicant/husband for 22 years and has filed an application under Section 125 of the Cr.P.C after 22 years, the pleadings and evidence adduced by the parties make it clear that earlier she was residing with her mother who was getting pension and she was dependent upon her, therefore, she did not claim any maintenance from the applicant/husband. She preferred the application under Section 125 of the Cr.P.C before the family Court for maintenance after the death of her mother.
7. The Code of Criminal Procedure did not prescribe any period of limitation for filing of an application under Section 125 of the Cr.P.C for grant of maintenance and there could be various reasons for the delay in filing the application under Section 125 of the Code of Criminal Procedure. The delay in filing any application under Section 125 of the Cr.P.C can never be a ground for debarring the wife, who is otherwise legally entitled to receive maintenance from her husband, from seeking maintenance under Section 125 of the Code of Criminal Procedure. Therefore, the learned Family Court has rightly allowed the application filed under Section 125 of the Cr.P.C by the respondent/wife.

8. The learned Family Court awarded only Rs. 1000/- monthly maintenance in favour of the respondent/wife from the date of its order, which looking to the present index of price, social status of both the parties and the earning capacity of the applicant/husband, is not on higher side.
9. Considering the above aspects of the matter, I do not find any merit in this revision. The revision is dismissed at the motion stage itself.

Sd/-
(Arvind Singh Chandel)
Judge