

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1552 of 2018**

Seema Das W/o Bodhan Das Aged About 28 Years D/o Bandhu Ram, Caste- Panika, Occupation- House Wife, R/o- Village- Jail Para Surajpur, P.S.- Surajpur, Tehsil & District- Surajpur, Chhattisgarh.

--- Petitioner

Versus

Bodhan Das S/o Kawal Das Aged About 35 Years Caste- Panika, Occupation- Contractor/business, R/o- Village- Bhaisadafai, Near Shanker Mandir, Loco Line Haldibadi, Chirimiri, P.S. And Tehsil- Chirimiri, District Koriya (Baikunthpur), Chhattisgarh.

--- Respondent

For the Petitioner : Mr. Surfaraj Khan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.08.2018

1. The limited prayer made in this present petition is to expedite the recovery proceeding pending u/s 125(3) of Cr.P.C., initiated by the wife.
2. It is contended that the maintenance was ordered on 10.02.2014 whereby amount of Rs.5000/- per month was awarded to the wife. Subsequently though the amount was partly paid in the intermittent period, but the amount has not been paid regularly, therefore, it has been accumulated to Rs.1,85,000/- as on 06.02.2018. It is submitted that the proceeding for recovery u/s 125(3) Cr.P.C., has been filed on

06.02.2018 and still the measures are to be taken by the Court and no coercive process is being adopted which has resulted into defeating the the very object of the legislature and the subsequent order of maintenance. Therefore, the trial Court may be directed to expedite the proceedings and recover the amount for the petitioner.

3. A perusal of the order sheet would show that at certain points of time, some amounts were paid in part but it is not being regularly paid, therefore, an application was filed for recovery u/s 125(3) of the Code of Criminal Procedure.
4. Be that as it may, if the amount of maintenance is not paid regularly then it defeats the very purpose of grant of maintenance as the maintenance is granted for survival which cannot be at the will and wish of the respondent. The order sheet shows that the maintenance of Rs.5000/- was awarded on 10.02.2014 and since the amount is not being paid regularly, therefore, by now as stated subject to actual confirmation more than Rs.1,85,000/- is still to be recovered from the respondent. If the very object of the proceedings carried out by the Court is diluted, then the court has to be sensitive to the fact that the maintenance amount is not at the mercy of the respondent, but a right granted in the award.
5. Under the circumstances, the trial Court is directed to calculate the entire outstanding dues which is payable to the petitioner on the next date of hearing and take coercive steps as contemplated u/s 125(3) of Cr.P.C., and ensure that the amount of award is paid to the beneficiary to uphold the object of the legislature and award passed subsequently.

The said calculation may be made within a further period of 45 days from the date of receipt of this order.

6. Further the Court is also expected to decide the application filed u/s 193 of Cr.P.C.
7. With the above observation/direction, this petition stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

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