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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 1071 of 2018

Ramnarayan Raje S/o Shri Bhaskar Raje, aged about 62 years, Retired Bank Manager, Bhumi Vikas Bank, ahead Bhadauriya Chowk, Shriram Hospital, Sahdev Nagar, Police Station- Basantpur, District- Rajnandgaon (C.G.).

--- Applicant

Versus

Smt. Hemlata Raje W/o Ramnarayan Raje, aged about 52 years R/o Sikola Basti, Durg, District- Durg (C.G.).

---- Respondent

For Applicant	:	Mr. Goutam Khetrapal, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

01/10/2018

1. Heard on admission.
2. This revision has been preferred against the order dated 31/08/2018 passed by the First Additional Principal Judge, Family Court, Durg whereby the preliminary objection submitted by the present applicant has been rejected.
3. Earlier vide order dated 22/09/1993 passed in MJC No. 190/1993, application under Section 125 of the Cr.P.C was allowed by the Family Court and the applicant herein was directed to pay Rs. 700/- monthly maintenance to respondent Hemlata/wife of the present applicant and Vikram Singh son of the respondent.
4. Subsequently, vide order dated 12/08/2015, it was enhanced from Rs.

700/- to Rs. 2000/- in favour of both of them. For further enhancement of the said amount, the respondent filed an application under Section 127 of the Cr.PC before the Family Court, wherein a preliminary objection has been filed by the present applicant with the averment that Vikram Singh who has got major is not legitimate or illegitimate child of the applicant herein and he filed a civil suit for DNA test for determination of paternity.

5. The learned family Court dismissed the application for DNA test. Thereafter, a writ petition was filed before this Court by the present applicant and vide order dated 12/06/2013 passed by this Court, the Family Court has been directed to obtain the consent from the said Vikram Singh for DNA test. Since Vikram Singh did not give his consent, therefore, the learned Family Court has rejected the application. Against which a writ petition was again filed by the applicant. Vide order dated 08/01/2018 passed by this Court, the Family Court was directed to not to pass any final order. On the said background of this case, a preliminary objection has been filed by the applicant before the learned Family Court that further proceeding of the case (127 Cr.P.C) should be stayed till the final decision passed in the writ petition, which has been rejected by the impugned order dated 31/08/2018 passed by the Family Court.
6. I have heard learned counsel for the parties and perused the record.
7. Admittedly, the respondent is the legally wedded wife of applicant. From the record, it is clear that in her favour initially the application under Section 125 of the Cr.P.C was allowed and Rs. 700/- was granted as monthly maintenance and vide order dated 12/08/2005, the

enhancement was also made. Since Vikram Singh has now become major, therefore, respondent has filed the application under Section 127 of the Cr.P.C for enhancement of maintenance for only herself. Moreover, in this case no paternity of Vikram Singh is to be decided and only respondent is entitled for further enhancement is to be decided. In these circumstances, the learned Family Court has rightly rejected preliminary objection of the applicant.

8. Considering the above aspects, I do not find any merit in this revision. The revision is dismissed at the motion stage itself.

Sd/-
(Arvind Singh Chandel)
Judge