

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on 28.8.2019****Order delivered on 28.11.2019****CRR No. 242 of 2018**

- Smt. Savita Baghel W/o Laxminarayan Baghel Aged About 35 Years R/o- Village Beejaguda, District- Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

---- Applicant**Versus**

- Laxminarayan Baghel S/o Ramuram Baghel Aged About 37 Years R/o- Village Bade Kaakloor, District- Baster, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

----Respondent

For Applicant	: Shri Kunal Das, Advocate
For Respondent	: Smt. Indira Tripathi, Advocate

Hon'ble Smt. Justice Rajani Dubey**CAV Order**

1. Heard.
2. This revision is directed against the order dated 30.10.2017, passed by the Principal Judge, Family Court, Bastar at Jagdalpur (CG) in MJC No. 72/2015, whereby the Judge Family Court has rejected the application filed by the applicant under Section 125 Cr.P.C.
3. Brief facts of the case are that before the Family Court the applicant/wife filed an application under Section 125 Cr.P.C. claiming maintenance of Rs.15,000/- per month against the respondent/ husband. According to the applicant her marriage with the respondent was solemnized in the year 2014 as per

Hindu ritual and customs. The respondent is a School Teacher and is earning Rs.30,000/- per month. Earlier, the trial court has granted interim maintenance of Rs.2500/- per month to the applicant vide order dated 2.4.2016. The applicant's case is that she is residing separately from the respondent/husband since 2014. The respondent is avoiding his duties as husband and he is a School Teacher and has regular income. The applicant is unable to maintain herself, therefore, she has claimed Rs.15,000/- per month as maintenance from the respondent.

4. Denying the averments made by the applicant, it has been stated that the applicant is residing separately on her own will and his earning is Rs.27,000/- per month. The applicant is doing work of stitching clothes and earning Rs.10,000/- from it, which is sufficient to maintain herself, therefore, she is not entitled for any maintenance under Section 125 Cr.P.C.
5. The Family Court after appreciating the oral and documentary evidence, rejected the application filed by the applicant holding that she is not legally married wife of the respondent, therefore, she is not entitled for any maintenance. Hence, this revision has been filed by the applicant for grant of maintenance.
6. Learned counsel for the applicant submitted that the impugned order is illegal, unreasonable and contrary to law. The documents filed by the applicant have not been exhibited by the Family court and only on the basis of statement of the respondent, the Family court has rejected the application filed under Section 125 Cr.P.C.

filed by the applicant. He submits that the Family Court has already passed an order of interim maintenance in favour of the applicant which deserves to be continued. The respondent has filed a petition for divorce, which revealed that there were relations between the applicant and the respondent as husband and wife, therefore, the application for grant of maintenance ought to have been considered by the Family court.

7. On the other hand, learned counsel for the respondent supported the impugned order and submitted that the order passed by the Family Court is just and proper and requires no interference by this Court. She further submitted that the applicant is not legally married wife of the respondent, therefore, she is not entitled for any maintenance under Section 125 Cr.P.C.
8. I have heard learned counsel for the parties and perused the record.
9. Before the Family Court the applicant has admitted in para 8 of her deposition that she has two children from Samir Rai namely- Raju-son and daughter Rakhi and her daughter has got married and living at village Umarkot with her husband. She has also admitted in para 9 that she has not filed any document in relation to her marriage with the respondent. The respondent has also deposed that earlier the applicant has married to Samir Rai and she has two children. The applicant did not file any document regarding divorce with her first husband. The Family Court has also appreciated the oral and documentary evidence in para 5 to

12 and arrived at a finding that the applicant was previously married to another person and she has not filed any document in relation to divorce with her first husband and thereafter regarding marriage with the present respondent. Therefore, her marriage with the respondent is not legally valid marriage. Thus, it is proved that the applicant is not legally married wife of the respondent and she is not entitled for maintenance under Section 125 Cr.P.C. and thereby the Family Court has rejected the application of the applicant.

10. Considering the overall facts and the evidence, I am of the view that the Family Court has rightly passed the order after appreciating the oral and documentary evidence and rejected the application of the applicant holding that she is not legally married wife of the respondent and there is no irregularity or illegality in the order passed by the Family Court warranting interference by this Court.
11. Accordingly, the revision has no merits and the same is dismissed.

Sd/

(Rajani Dubey)

JUDGE