

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 572 of 2014**

1. Sheela Singh W/o. Shri Sadan Singh, aged about 26 years By Caste Kanwar, R/o Village Darima, Police Station Darima, Tahsil Ambikapur, Civil & Revenue District Sarguja (C.G.).

2. Shahil S/o Shri Sadan Singh, aged about 2 years, By caste Kanwar, R/o Village Darima, Police Station Darima, Tahsil Ambikapur, Civil & Revenue Districtt. Sarguja (C.G.) through legal guardian mother Applicant No.1 Sheela Singh

---- Applicants**Versus**

Sadan Kumar S/o Shri Sandeshar Singh, aged about 40 years, By caste Kanwar, R/o Village Darima, Police Station Darima, Tahsil Ambikapur, Civil & Revenue District Sarguja (C.G.).

---- Respondent

For Applicants	:	Ms. Laxmeen Kashyap, Advocate
For Respondent	:	Mr. A.N. Bhakta, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**22/01/2019**

1. This revision has been filed against order dated 08/07/2014 passed by the Family Court, Ambikapur in Misc. Criminal Case No. 11/2012, whereby the Family Court dismissed the application under Section 125 of the Cr.P.C against Applicant No.1 and partly allowed the application against Applicant No.2 and granted monthly maintenance of Rs. 3000/- in favour of Applicant No.2.
2. Facts of the case in nutshell is that the marriage of Applicant No. 1 was solemnized with the Respondent in the year 2008. Out of their

wedlock, Applicant No. 2 born. After some time of marriage when Applicant No. 1 was pregnant, the Respondent committed *Marpeet* with her and expelled her from his house. It is further pleaded by the Applicants that the Respondent is Govt. employee and has also source of income through agriculture. The Applicants are unable to maintain themselves, therefore, they filed an application under Section 125 Cr.P.C for grant of maintenance of Rs. 4000/- per month for each of them.

3. The Respondent filed his reply and denied the facts that Applicant Nos. 1 & 2 are his wife and son. It was pleaded by him that his marriage was solemnized with Rekha Singh about 25 years ago and from their wedlock, they have 3 children. It was further pleaded by him that Applicant No. 1 made a report against him regarding rape and on the basis of said report, a charge-sheet was filed against him under Section 376 of the IPC. After trial, he was acquitted of the charges. Since, Applicant No. 1 and 2 are not his wife and son, therefore, they are not entitled to get any maintenance.
4. Applicant No. 1 examined herself as well as one witness namely Shanti Bai in her favour. The Respondent has only examined himself.
5. After taking the evidence and the arguments advanced by the parties, the Family Court vide impugned order dated 08/07/2014 dismissed the application against Applicant No. 1 on the ground that she is not legally wedded wife of the Respondent and granted monthly maintenance of Rs. 3000/- in favour of Applicant No.2.

6. Counsel for the Applicant submits that as per material available on record the Applicants has proved that Applicant No. 1 is legally wedded wife of the Respondent, but inspite of this fact the learned Family Court rejected the application against Applicant No.1. It is further submitted that looking to the financial status of the Respondent, maintenance of Rs. 3000/- granted in favour of Applicant No. 2 is on lower side and the same should be suitably enhanced.
7. From perusal of record and statements of both the parties, it is clear that the Respondent had already married in the year 1989 with one Rekha Singh and out of their wedlock they have three children. It is also clear from the record that Applicant No.1 is unable to produce any evidence with regard to her marriage with the Respondent. From the record, it is apparent that she made a report against the Respondent for offence punishable under Section 376 IPC. After trial, the Respondent was acquitted of the charges. From the evidence adduced by the parties, it is clear that there is no evidence on record on the basis of which it can be presume that Applicant No. 1 is legally wedded wife of the Respondent. Therefore, the conclusion of the Family Court in this regard is in accordance with law and the Family Court has rightly rejected the Application against Applicant No.1.
8. With regard to quantum of maintenance granted in favour of Applicant No.2, it is clear that the Respondent was getting monthly salary of Rs. 21500/- at the relevant time and the age of Applicant No. 2 was only 2 years at that time. Thus, the monthly maintenance of Rs. 3000/- which was granted by the Family Court is also just and proper.

9. Considering the above aspects of the case, I do not find any merit in this case.
10. Accordingly, the revision is dismissed. The order passed by the Family Court is affirmed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul