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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Revision No.644 of 2013**

Order Reserved on : 16.1.2019

Order Passed on : 22.4.2019

Vinod Kumar, son of late Tekram Joshi (Bhatari), aged about 25 years, R/o Durga Chowk Bhatapara, Medesara, P.S. Nandani, Tahsil Dhamdha, District Durg, Civil and Revenue District Durg, Chhattisgarh

**---- Applicant**

**versus**

Smt. Thagan Bai, wife of Vinod Kumar Joshi (Bhatari), aged about 19 years, R/o Through the Father Jeevan Lal Joshi (Bhatari), R/o Durga Chowk Bhatapara, Medesara, P.S. Nandani, Tahsil Dhamdha, District Durg, Civil and Revenue District Durg, Chhattisgarh

**--- Respondent**

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For Applicant : Shri Jitendra Gupta, Advocate

For Respondent : Shri H.B.Agrawal, Senior Advocate with  
Smt. Prabha Sharma, Advocate  
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**Hon'ble Shri Justice Arvind Singh Chandel**

**C.A.V. ORDER**

1. This revision has been preferred by the husband against the order dated 6.9.2013 passed by the Family Court, Durg in Criminal M.J.C. No.49 of 2013, whereby the Family Court has allowed the application under Section 125 Cr.P.C. preferred by the Respondent/wife and granted her monthly maintenance of Rs.1,200/-.
2. Before the Family Court, the Respondent/wife filed an application under Section 125 Cr.P.C. for grant of maintenance. It was pleaded by her that there was a love relationship between her and the Applicant. Thereafter, when this fact came to the knowledge of the villagers, a village meeting was called in which it was decided

that since both have developed a love relationship, their marriage should be performed. Thereafter, on 14.11.2010, their marriage was solemnised. It was further pleaded by her that the Applicant and his family members started torturing her and on 18.11.2010, the Applicant expelled her out of his house and since then she is residing at her parental house. It was further pleaded by her that the Applicant has also performed second marriage. Since she is unable to maintain herself and the Applicant is earning Rs.15,000/- per month, she prayed for grant of monthly maintenance of Rs.5,000/-. In his reply, the Applicant/husband denied all the allegations made against him by the Respondent/wife. It was pleaded by him that on 8.11.2010, the Respondent entered his house without telling anybody. At his house, she, telling that she has a love relationship with him, expressed that she wants to marry him. At that time, he was not present at his house. She was asked to go out of the house, but she did not go out. When the villagers were called then she went out of the house. It was further pleaded by him that on 9.11.2010, a village meeting was called in which he was pressurised by the villagers that if he does not marry the Respondent, they will implicate him in a case of rape. Due to the pressure, his marriage was performed with the Respondent against his will by putting garlands (*Jaimala*) in each other's neck. Since the Respondent is not his legally wedded wife, she is not entitled to get any maintenance from him.

3. Before the Family Court, the Respondent/wife examined herself as Applicant Witness No.1. She also examined one Madanlal as Applicant Witness No.2. The Applicant/husband examined himself as Non-Applicant Witness No.1 and in his support he also examined Mannulal Joshi as Non-Applicant Witness No.2, Ashwani

Kumar Joshi as Non-Applicant Witness No.3, Gendlal Joshi as Non-Applicant Witness No.4 and Bhimsen Joshi as Non-Applicant Witness No.5. The Applicant and the Respondent have also led certain documentary evidence in their support. After recording of evidence of both the parties and hearing arguments on their behalf, the Family Court, vide the impugned order dated 6.9.2013, allowed the application of the Respondent and granted her monthly maintenance of Rs.1,200/-.

4. Learned Counsel appearing for the Applicant submitted that the impugned order passed by the Family Court suffers from illegality, impropriety and perversity and, therefore, the order is not sustainable in the eyes of law. The Respondent is not a legally wedded wife of the Applicant. None of the seven steps was taken by the Applicant with her before the burning fire and no mantras were pronounced by any priest in order to complete the marriage. Mere putting of garlands (*Jaimala*) in each other's neck cannot be taken as a substitute of a legal marriage. Thus, the Respondent is not entitled to get any maintenance from the Applicant. It was further submitted that though the Applicant performed a *Jaimala* marriage, it was performed under pressure of the villagers. Therefore, this *Jaimala* marriage cannot be said to be a legal marriage performed with free will.
5. Learned Senior Advocate appearing for the Respondent submitted that there is sufficient evidence available on record which shows that *Jaimala* marriage was performed between the Applicant and the Respondent. The evidence on record clearly shows that in the community of the parties, *Jaimala* marriage is also permissible. The evidence on record also shows that the *Jaimala* marriage was

performed with the consent of the Applicant himself in presence of the villagers. Since the *Jaimala* marriage is permissible in the community of the parties, the Family Court has rightly found that the Respondent is legally wedded wife of the Applicant.

6. I have heard Learned Counsel for the parties and perused the record with due care.
7. Both the parties have deposed before the Family Court according to their pleadings. In her Court statement, the Respondent has deposed that when she was working with the Applicant, a love relationship developed between them and when this fact came to the knowledge of the villagers, a meeting was called. Thereafter, on 14.11.2010, their marriage was performed in the house of the Applicant in presence of the villagers. The Applicant has deposed that on 8.11.2010, the Respondent herein forcibly entered his house. Thereafter, a village meeting was convened. During her Court statement, the Respondent has also admitted this fact that she had entered the house of the Applicant on 8.11.2010 and thereafter a village meeting was called. During his cross-examination, the Applicant has admitted the fact that in presence of the villagers, his marriage was performed with the Respondent. Though he has stated that the said marriage was performed under pressure of the villagers, he has admitted the fact that when the marriage was being solemnised he did not try to run away nor did he make any complaint immediately against the Respondent or the villagers. Witnesses of the Applicant, namely, Mannulal Joshi, Ashwani Kumar Joshi, Gendlal Joshi and Bhimsen Joshi have also admitted the fact that between the Applicant and the Respondent, *Jaimala* marriage was performed in presence of the villagers.

Bhimsen Joshi, in his Court statement, in paragraph 6, has categorically admitted that in the village meeting, it was settled that marriage of the Applicant and the Respondent should be performed and thereafter the *Jaimala marriage* was performed between the Applicant and the Respondent in presence of the villagers. Thereafter, the Respondent resided at the house of the Applicant for 8 days. Witness of the Respondent herein, namely, Madanlal (AW2), in his cross-examination, in paragraph 10, has categorically stated that in their community, if any relationship is developed between a girl and a boy then a *Jaimala* marriage is permissible between that boy and girl according to their customs and, therefore, the *Jaimala* marriage was performed between the Applicant and the Respondent. The above statement of this witness has not been duly rebutted by the Applicant. From perusal of the invitation card (Ex.P1), it is also clear that for the marriage, an invitation card was also got printed and distributed from the Respondent side. Photographs (Ex.P2 to P5) and video CD (Article A) also show that a *Jaimala* marriage was performed between the Applicant and the Respondent. As contended by the Applicant, this *Jaimala* marriage was performed against his will. The marriage was solemnised on 14.11.2010 and the evidence on record shows that the Respondent had first allegedly entered the house of the Applicant on 8.11.2010. But, the report in this regard was made by the Applicant on 17.11.2010 and on 22.11.2010. When the Respondent allegedly deliberately entered the house of the Applicant on 8.11.2010, why did the Applicant not immediately lodge any report against the Respondent in this regard and thereafter on 14.11.2010 when his marriage was performed with the Respondent against his will why did he not immediately make

any report in this regard, have not been explained by him. From the evidence adduced by the parties, it is well established that in presence of the villagers, a *Jaimala* marriage was performed between the Applicant and the Respondent. Thereafter, the Respondent resided with the Applicant at his house for 8 days. As stated by Madanlal (AW2), this kind of *Jaimala* marriage is permissible in their community if a love relationship is developed between a girl and a boy of their community and accordingly the *Jaimala* marriage was performed between the Applicant and the Respondent according to the customs prevalent in their community. The evidence adduced by the parties do not establish that the said *Jaimala* marriage of the Applicant was performed with the Respondent against his will or under any pressure of the villagers. Therefore, the finding of the Family Court in this regard is in accordance with the evidence available on record.

8. With regard to the quantum of maintenance, looking to the social status of both the parties and financial status of the Applicant/husband, his earning capacity, the grant of maintenance of Rs.1,200/- per month is not on higher side and is thus held to be just and proper.
9. Consequently, the revision is dismissed and the impugned order dated 6.9.2013 is affirmed.
10. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-  
(Arvind Singh Chandel)  
JUDGE