

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 102 of 2015****Order Reserved on 30/01/2019****Order delivered on 25/04/2019**

Smt. Teras Bai W/o Manoj Pahuja, aged about 27 years R/o Motisagar para P.S. City Kotwali, Korba Tahsil Revenue and Civil District Korba (C.G.)

--- Applicant**Versus**

Manoj Pahuja S/o Late Chugga mal, aged about 45 years R/o Rani Road Purani Basti, Korba, P.S. City Kotwali, Korba, Tahsil Korba Revenue and Civil District Korba (C.G.).

---- Respondent

For Applicant	:	Mr. Sandeep Dubey, Advocate.
For Respondent	:	None.

Hon'ble Shri Justice Arvind Singh Chandel**CAV Order**

1. This revision has been filed by the Applicant against order dated 14/08/2014 passed in Case No. 87/2013 by the Family Court, Korba, whereby the learned Family Court has rejected the application under Section 125 of the Cr.P.C.
2. Facts of the case are that an application under Section 125 of the Cr.P.C was filed by the Applicant before the Family Court with the averments that her marriage had been solemnized with the Respondent at temple situated at Amarkantak before 7-8 years. Thereafter, both lived at Korba for about 6 years and thereafter in the rented house of one Sitamani. During this period, she got pregnant thrice, but the Respondent forcibly aborted

pregnancies. On 22/01/2013, the Applicant came to know that the Respondent was previously married with one Rajni and when she talked this matter with the Respondent/Husband, he assaulted her and expelled her from his house. Since then she is residing at her parents house. The matter was reported by the Applicant/Wife, but no action was taken by the police. It was pleaded by her that she is unable to maintain herself and the Respondent has sufficient means to maintain her.

3. In his reply, the Respondent denied all the allegations made against him. He has categorically pleaded that he had no relation with the Applicant. Neither he married with her nor he resided with her at any point of time. Since, the Applicant is not her legally wedded wife and they have not lived together, therefore, she is not entitled to get any maintenance.
4. Both the parties adduced their evidence before the Family Court. The Applicant examined herself as Applicant Witness No. 1 and also examined her other witnesses namely Phool Bai as Applicant Witness No. 2, Ramkumar as Applicant Witness No. 3 and Ramu Halbai as Applicant Witness No. 3. She also submitted certain documents in her favour. The Respondent examined himself as Non-Applicant Witness No. 1 and one Moh. Ameen as Non-Applicant Witness No. 2.
5. After recording their evidence and hearing their submission, the learned Family Court has rejected the application of the Applicant on the ground that since she is not legally wedded wife of the Respondent, therefore, she is not entitled to get any maintenance. Thus, this revision has been filed by the Applicant.

6. Learned counsel for the Applicant submits that from the evidence adduced by the Applicant, it is well established that the Applicant is legally wedded wife of the Respondent and both have resided together as husband and wife for a long period, but the Family Court has failed to appreciate these facts, thus, the order passed by the Family Court is not in accordance with law and evidence adduced by the parties.
7. No one appears on behalf of the Respondent, even when the matter is called out twice and thrice in preceding days of the week.
8. I have heard counsel for the Applicant and perused the records minutely to assess the correctness of the impugned order.
9. Both the Applicant and the Respondent have deposed as per their pleadings before the Family Court. As pleaded and stated by the Applicant that she and the Respondent got married in the temple situated at Amarkantak, but in front of whom the marriage took place, was not disclosed by her. A report was lodged by the Applicant in police station vide Ex.P-3. In the said report, the Applicant has stated that the Respondent without performing marriage with her, had kept her with him and exploited her physically. This shows that both have not performed marriage. As stated by the Applicant, she resided with the Respondent for about 5-6 years at Korba. Her above statement was duly corroborated by her mother Phool Bai, Ramkumar and Ramu Halbai. Both, Ramkumar and Ramu Halbai have stated that the Respondent and the Applicant resided together in their neighbour. The above statements of both the witnesses have not been rebutted during their cross examination. Thus, it is well

established that though there is no marriage performed between them, but both have resided together as husband and wife for a long period.

10. The Respondent in his Court statement has not stated anything about first marriage of the Applicant, but his witness Moh. Ameen has categorically stated that the Applicant had married in the Akaltara. The above statement of Moh. Ameen has not been rebutted by the Applicant. Apart from this, the document Ex.P-2 submitted by the Applicant also shows that earlier she was married with one Duwas Kirari. She came to her paternal house after leaving him. Thereafter, she developed relation with the Respondent. Thus, it is clear that she was previously married and without taking any divorce, she was living at her paternal house and there she developed relation with the Respondent. From the evidence adduced by both the parties and admission made by the Applicant, it is well established that the Respondent was previous married and he had a child from his first wife. For the shake of argument, if it is admitted that both were in live in relation yet from the evidence it is established that both were previously married and without taking any divorce from their partner, both have resided together. Moreover, as per the report Ex.P-2, it is also established that the Applicant, without taking any divorce from her husband, developed relation with the Respondent, thus, she was within proper knowledge that she was previously married and she had not taken any divorce legally or socially, yet knowing this fact, she lived with the Respondent in live in relation, therefore, it will not be called legal relation, but the interpretation of the same would come that she had lived adulterous life with the Respondent. Therefore, in my considered opinion, she is not entitled to get any

maintenance from the Respondent.

11. Consequently, the revision has no merit and the same is dismissed.

(Arvind Singh Chandel)
Judge

Rahul