

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 301 of 2015**

Tularam Thakur, aged about 50 years S/o Karan Singh R/o Bulak Road, Kailash Nagar Takhatpur, District Bilaspur (Wrongly mentioned as District Kabirdham) (C.G.)

---- Applicant

Versus

Smt. Uma Thakur, aged about 48 years W/o Tularam Thakur, R/o Bulak Road, Kailash Nagar, Takhatpur, District bilaspur (C.G.) at present Adarsh Nagar, Kawardha, P.S. Kawardha, District Kabirdham (C.G.)

---- Respondent

For Applicant	:	Mr. Ajit Singh, Advocate
For Respondent	:	Mr. Dharmesh Shrivastava, Advocate

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

07/02/2019

1. This revision has been preferred against order dated 23/02/2015 passed in Miscellaneous Criminal Case No. 684/2013 by the Family Court, Kabirdham, whereby the Family Court while allowing the Application under Section 125 of the Code of Criminal Procedure granted monthly maintenance of Rs. 1000/- in favour of the Respondent/Wife.
2. The Respondent/Wife pleaded before the Family Court that the marriage between the Applicant and the Respondent was solemnized before 30 years ago and she is legally wedded wife of the Applicant. Out of their wedlock, one child Sarita was born. Thereafter, the Applicant left the Respondent and went to Delhi for earning livelihood. After 3-4 years, the Respondent came to know that the Applicant has returned to Takhatpur and residing with one Fagni. A social meeting

was also organized, but the Applicant did not leave his second wife. Since then the Respondent is residing separately. Earlier, the Respondent was living with her father who maintained her, but after the death of her father, she is unable to maintain herself. The Applicant has sufficient means to maintain her.

3. In his reply, the Applicant submitted that though marriage has been performed with the Respondent, but Gauna ceremony was not performed, therefore the Respondent is not his wife. She filed her application without any reasonable grounds after 30 years. He admitted the fact that he is living with one Faguni for last 28 years.
4. After recording all the evidence of both the parties and hearing the arguments, the learned Family Court allowed the application of the Respondent and granted monthly maintenance of Rs. 1000/- in favour of the Respondent. Thus this revision has been filed by the Applicant/Husband.
5. Counsel for the Applicant submits that inspite of the fact that the Respondent is not legally wedded wife of the Applicant, the Family Court has granted monthly maintenance in favour of the Respondent. He further submits that the Family Court has ignored the fact that the Respondent/Wife was able to maintain herself, therefore, she had not filed any application for her maintenance. She filed the application after 30 years, therefore, she is not entitled to get any maintenance from the Applicant.
6. Counsel for the Respondent supported the impugned judgment.
7. I have heard counsel for the parties and perused the record.

8. There is no dispute on the point that the marriage of Applicant and Respondent was solemnized before 30 years. In her Court statement, the Respondent/wife has categorically stated that at the time of marriage, the Gauna ceremony was also done. Above statement of wife is not rebutted during her cross-examination. The Applicant/Husband has also admitted the fact that he is living with another lady since last 28 years. Thus, it is clear that the Respondent is legally wedded wife of the Applicant and the Applicant is residing with another lady for last 28 years. Therefore, the Respondent/Wife has sufficient cause to reside separately. It is true that the present application for maintenance has been filed by the Respondent/Wife after 30 years, but as stated by her in her statement that earlier she was maintained by her father and brother. Since his father has died and presently she is not able to maintain herself. In these circumstances, if she files an application for maintenance after a gap of 30 years does not make any impact adversely. Therefore, in my view, the finding of the Family Court in this regard is just and proper.
9. With regard to quantum of maintenance, the Family Court has granted Rs. 1000/- as monthly maintenance. Looking to the financial status and earning capacity of the Applicant, the maintenance granted by the Family Court is appears just and proper.
10. Considering the above aspects, I do not find any merit in this revision. The same is, accordingly, dismissed.

Sd/-
(Arvind Singh Chandel)
Judge