

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.781 of 2017**

1. Smt. Daaliya Vishwas, W/o Shri Indranath Vishwas, age 40 years,
2. Palaas Vishwas, S/o Shri Indranath Vishwas, aged about 7 years, minor through his mother Smt. Daaliya Vishwas, W/o Indranath Vishwas, R/o Ward No.15, Upar Bunglow, North Jhagrakhand, P.S. Jhagrakhand, Tahsil Manendragarh, District Koriya, Chhattisgarh

---- Applicants**versus**

Indranath Vishwas, S/o B.K. Vishwas, aged about 42 years, R/o Hemunagar, Near Agrawal Gudhakhu Factory, P.S. Torwa, Bilaspur, District Bilaspur, Chhattisgarh

--- Respondent

For Applicants	:	Shri Shakti Raj Sinha, Advocate
For Respondent	:	Shri N.K. Chatterjee, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****13.5.2019**

1. With the consent of Learned Counsel appearing for the parties, the revision is heard finally.
2. Both the Applicants preferred an application, being M.Cr.C. No.8 of 2014 under Section 125 of the Code of Criminal Procedure before the Family Court, Manendragarh. Vide impugned order dated 12.6.2017, the Family Court dismissed the application on the ground that in the matter of Section 13(b) of the Hindu Marriage Act, on the basis of a compromise, Applicant No.1, doing a final settlement, has taken a sum of Rs.1,50,000/- from the Respondent/husband and, therefore, the Applicants are not entitled to get maintenance. Hence, this revision by the Applicants.
3. I have heard Learned Counsel appearing for the parties and perused the record with due care.

4. It is not in dispute that the Respondent is husband of Applicant No.1. Out of their wedlock, Applicant No.2 took birth. Both Applicant No.1 and the Respondent filed an application under Section 13(b) of the Hindu Marriage Act before the Family Court, Bilaspur for taking divorce by mutual consent. In paragraph 5 of the said application, it is mentioned that Applicant No.1 shall receive a total sum of Rs.1,50,000/- by doing a full and final settlement with the Respondent/husband.
5. Learned Counsel appearing for the Applicants admits the fact that Applicant No.1 has received a sum of Rs.1,50,000/- from the Respondent/husband as a full and final settlement. Therefore, rejection of the claim of Applicant No.1 for grant of maintenance under Section 125 of the Code of Criminal Procedure by the Family Court is in accordance with law.
6. With regard to Applicant No.2, it is not in dispute that he is a child of the Respondent and Applicant No.1. Though Applicant No.1 has made a full and final settlement, she has no right to make any full and final settlement with respect to Applicant No.2, who is a minor boy. Apart from this, in the order granting decree of divorce between the Respondent and Applicant No.1, there is no mention that any full and final settlement has been done for Applicant No.2. Therefore, in my considered view, Applicant No.2, being a minor son of the Respondent, is entitled to get maintenance from him. Considering the financial status of the parties and earning capacity of the Respondent, grant of Rs.3,500/- per month with effect from today as maintenance to Applicant No.2/minor son would be just and proper. Ordered accordingly.

7. Consequently, the revision is allowed in part to the extent indicated above.
8. Record of the Court below be sent back along with a copy of this order for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge