

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1226 of 2018**

Khirendra Shriwas S/o Jagdish Shriwas, aged about 32 years, R/o Old Bus Stand, behind the Lormi Police Station, Dubaripara, Ward No. 05, Lormi, District Bilaspur (C.G.) Working Place Bhilai, P.P. Yard Unit No. 2, Near Railway Crossing, Bhilai-3, District Durg (C.G.)

----Applicant**Versus**

Archana Shriwas (Yadav), W/o Khirendra Shriwas, aged about 32 years R/o Mission Hospital Premises, Bilaspur, Police Station Civil Line Tahsil & District Bilaspur (C.G.)

---- Respondents

For Applicant	:	Mr. Bhaskar Payashi, Advocate
For Respondents	:	Mr. P.K. Tulsiyan, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****08/05/2019**

1. With the consent of both the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 28/08/2018 passed in MJC No. 113/2018 by the Additional Principal Judge, Bilaspur, whereby the learned Additional Principal Judge has allowed the application under Section 125 of the Cr.P.C and granted monthly maintenance of Rs. 8000/- in favour of the Respondent herein.
3. From perusal of the record of the Family Court, it is clear that on 24/05/2018, Non-Applicant Witness No. 2 Jagdish Prasad (father of the present Applicant) was appeared before the Family Court and his partly cross-examination was done. During his cross-examination, this witness has made a submission that he wants to withdraw his statement submitted under Order 18 Rule 4 of the C.P.C. The learned Family Court

has allowed his request and closed the evidence of Non-Applicant of that case. Thereafter, vide impugned order dated 28/08/2018, the learned Family Court while passing the impugned order has considered the statement of this witness and has granted maintenance in favour of the Respondent herein.

4. Once a statement of any witness has been submitted under Order 18 Rule 4 of the C.P.C and his cross-examination has been done partly or finally, there is no provision to withdraw the said statement. Thus, the permission granted by the Family Court to withdraw the said statement is contrary to law. Apart from this, while passing the impugned order, the Family Court has considered the statement of this witness. When this witness has not been fully cross-examined, then in such condition, his statement does not come in considerable to decide a case for grant of maintenance.
5. Considering the above, the impugned order dated 28/08/2018 is set-aside. The matter is remanded back to the Family Court with a direction to summon Jagdish Prasad (Non-Applicant Witness No. 2) for further cross-examination of him, and thereafter pass afresh order in accordance with law.
6. Consequently, the revision is disposed of in the above terms.

Sd/-
(Arvind Singh Chandel)
Judge