

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.R. No. 1292 of 2019

- Smt. Durga Bai Sahu W/o Late Shri Anuj Ram Sahu Aged About 50 Years R/o Near New Railway Zone Grih Nirman Colony, Uslapur, Police Station Civil Line Bilaspur, District Bilaspur Chhattisgarh

---- Applicant

Versus

- Devlal S/o Late Anuj Ram Sahu Aged About 30 Years R/o Railway Zone Office, GRM Office, Bilaspur, District Bilaspur Chhattisgarh

---- Non-applicant

<u>18/10/2019</u>	Mr. Krishna Tandon, counsel for the appellant. Heard. It is submitted that the applicant is step-mother of non-applicant and application was filed by the applicant under Section 125 of Cr.P.C. claiming maintenance from non-applicant/respondents which was allowed by Family Court by order dated 08.09.2017. The applicant had then preferred an application under Section 125(3) Cr.P.C. praying for execution of the order. In the meanwhile, the respondent filed a Criminal Revision No.997/2017 before this Court which has been decided vide order dated 24.07.2019. The order granting maintenance dated 08.09.2017 was set aside with direction for production of additional evidence to decide the case afresh. However, there was no order regarding the entitlement of applicant prior to the date of setting aside the order. Therefore, till date, the order granting maintenance was enforced, the petitioner is entitled to seek execution of the same till that date. However, the Court below has rejected the application under section 125(3) of Cr.P.C. vide order dated 16.09.2019. Hence, this petition.

On perusal of the order passed by Coordinate Bench of this Court in Cr.R. No.997/2017 dated 24.07.2019, it is found that there is no such order passed to dis-entitle, the applicant for claiming the maintenance prior to the date of setting aside the order granting bail. Therefore, I feel inclined to allow this petition at motion stage without notice to the respondent.

The impugned order dated 16.09.2019 is set aside and the learned Family Court is directed to reconsider on application under Section 125(3) Cr.P.C. for realization of the arrears of maintenance which may have accrued before the date of setting aside the order of maintenance.

Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge