

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 921 of 2019

Veenita Chowdhary, W/o. Ankit Patel, Aged About 24 Years, R/o. Village Bansiya, Tahsil and District Raigarh, Chhattisgarh.

---- Petitioner

Versus

Ankit Patel, S/o. Yogesh Patel, Aged About 30 Years, Occupation- Software Engineer, R/o. Block- 8, Plot No.7, Nehru Nagar (West), Bhilai, Tahsil and District Durg, Chhattisgarh.

-----Respondent

For Petitioner

: Mr. Sourabh Sharma, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/12/2019

1. This petition has been brought being aggrieved by the order dated 07.09.2019, passed by the learned Family Court, Raigarh (C.G.) in Cr.M.J.C. No.F-92 of 2018 by dismissing the application of the petitioner under Order 11 Rule 12 of C.P.C.
2. It is submitted by the counsel for the petitioner that the petitioner filed an application praying for order for discovery of documents in possession of the respondent regarding his appointment and salary details. Respondent in his reply has admitted that he is working in private concern. Although he denied giving any other details. Learned Court below has without appreciating this admission, has held that the issue raised by the petitioner is subject to evidence and rejected the application, which is erroneous and arbitrary and against the provisions of law. Therefore, it is prayed that the petition be admitted and relief be ordered.

3. Respondent is yet to be noticed. However, on perusal of the impugned order, it is found that there is an admission made by the respondent regarding his employment but there is no specific admission or denial regarding the details prayed for in the application for discovery of document.
4. Order 11 Rule 12 of C.P.C. very clearly provides that party to any suit may be required to make discovery on oath of the documents, which are or have been in his possession or power, relating to any matter in question therein. Although the proceeding is under Section 125 of Cr.P.C., therefore, it is termed as criminal proceeding but it is a proceeding of quasi civil matter, therefore, in some matters parties can resort to the provision of Civil Procedure Code and same can be made applicable if found necessary. Further Section 10 of Family Courts Act also empowers the Court to adopt procedure as it may suit. Therefore, I am of this view that the trial Court has without giving consideration on the provisions of Order 11 Rule 12 of C.P.C. has passed the order, which does not appear to be maintainable.
5. Accordingly, this petition is allowed. The impugned order dated 07.09.2019, passed by the learned Family Court, Raigarh (C.G.) in Cr.M.J.C. No. F-92 of 2018 is set-aside and the learned Family Court is directed to reconsider the application filed by the petitioner under Order 11 Rule 12 of C.P.C.
6. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge