

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 2636 of 2019**

Yogesh Kumar Dewangan, Aged about 33 years, S/o Shri Kailash Dewangan, R/o Infront of Shiv Temple, Civil Lines, Ward No. 7, Tahsil Jagdalpur, Distt. Bastar, Chhattisgarh.

---Petitioner**Versus**

Rajni Dewangan, Aged 33 years, W/o Yogesh Kumar Dewangan, R/o Village Palligaon, Thodhapara, Kumharawand, Tahsil Jagdalpur, Distt. Bastar, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Anchal Kumar Matre, Advocate
For State	:	Ms. Shivali Dubey, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****09/12/2019**

1. Respondent herein filed an application under Section 125 of the Cr.P.C. before the family Court for grant of maintenance. During the pendency of the said application, petitioner herein moved an application under Section 65 and 65B of the Indian Evidence Act, 1872 for examining the voice sample of the call recordings of his wife Rajni Dewangan which was rejected by the family Court by the impugned order dated 13/11/2019 against which this criminal miscellaneous petition under Section 482 of the Cr.P.C. has been preferred by the present petitioner.
2. Learned counsel for the petitioner would submit that in order to establish his defences, such examination of voice sample of his

wife is necessary, as such, the family Court has committed illegality in rejecting his application.

3. I have learned counsel for the petitioner at length.
4. Learned family Court has recorded sufficient reasons to hold that such an examination of respondent's voice sample is not necessary for the consideration of application under Section 125 of the Cr.P.C. Even otherwise, the Supreme Court in the matter of ***Ritesh Sinha v. State of Uttar Pradesh and Anr.***¹ has held as under :-

“In the light of the above discussions, we unhesitatingly take the view that until explicit provisions are engrafted in the Code of Criminal Procedure by Parliament, a Judicial Magistrate must be conceded the power to order a person to give a sample of his voice for the purpose of investigation of a crime. Such power has to be conferred on a Magistrate by a process of judicial interpretation and in exercise of jurisdiction vested in this Court under Article 142 of the Constitution of India. We order accordingly and consequently dispose the appeals in terms of the above.”

5. In view of the aforesaid, I do not find any merit in this petition.
6. Accordingly, this Cr.M.P., being devoid of merits, stands dismissed.

No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet