

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.510 of 2018

- Mohanlal Sahu S/o Devnath Sahu Aged About 26 Years R/o Village Tarenga, Police Station Bhatapara Rural, District Baloda Bazar -Bhatapara Chhattisgarh Present R/o In House Of Sandiji, Near Nagar Palika, Beergaon, P.S. Urla, District Raipur Chhattisgarh

---- Petitioners

Versus

- Smt. Tarkeshwari @ Rani Sahu W/o Mohanlal Sahu Aged About 22 Years R/o Through Shri Lakhanlal Sahu (Retired Teacher), Near Gaura-Chaura, Shrinagar, Khamtarai, Police Station Khamtarai, District Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Vaibhav A. Goverdhan, Advocate.
For Respondent	:	Mr. S.P. Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-01-2020

Heard.

1. This Criminal Revision has been brought being aggrieved by the order dated 19.04.2018 passed by the learned First Additional Principal Judge, Family Court, Raipur, District- Raipur, C.G., in M.J.C. No.524/15 granting maintenance to the respondent of Rs.25,00/- per month under Section 125 of Cr.P.C.
2. Learned counsel for the petitioner submits that earlier the application was filed under Section 9 of Hindu Marriage Act, which was registered as Case No.H-21/2015 before the Court of Additional District Judge, Bhatapara, C.G., vide order dated 05.11.2016. The learned trial Court

has given finding and observed that the respondent was living separately without any sufficient cause and on that basis, the case was decreed in favour of the applicant. The learned Court below has not taken into consideration this fact and finding of the order passed by Additional District Judge, Bhatapara, it is an order in Civil Case and that has a binding effect on any criminal proceeding. Although it was brought to the notice of that Court by confronting the said order to the witnesses of respondent at the time of their examination and also by submitting a written argument having content of the same. Therefore, the impugned order is arbitrary against the provisions of law which is not sustainable.

3. Learned counsel appearing for respondent opposes the submissions made and submits that the learned Court below has not committed any error in passing the impugned order. The finding in the proceeding under Section 125 of Cr.P.C. is independent of other witnesses recorded in other cases pending between the parties and there is no binding effect of the order passed in the case under Section 9 of Hindu Marriage Act, therefore, the petition may be dismissed.
4. Heard learned counsel for both the parties and also perused the documents present.
5. On perusing the documents present on the records, it is found that the judgment dated 05.11.2016 was passed in the H.M.A. Case No.H-21/2015 and it was subsequent to that the statement of witnesses were recorded in M.J.C. No.524/2015 in which the witnesses of respondent were confronted with the judgment dated 05.11.2016 and further the order in M.J.C. No.524/2015 is subsequently passed on 19.04.2018.
6. On perusal of the impugned order, it is found that there is no mention of

the finding given in the case under Section 9 of Hindu Marriage Act which should have been mentioned and appreciated for the purposes of passing the correct order in this case. Therefore, I am of this view that the learned Family Court has committed an error which needs rectification. Hence, this revisions petition is allowed at the motion stage and the impugned order is set aside. The case is remanded back to the Court of learned Family Court for the reconsideration on the fact of the order that has been passed in the H.M.A. Case No.H-21//2015 vide order dated 05.11.2016 and pass appropriate order.

7. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge