

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 81 of 2019**

- Madan Sahu, S/o Gariba Sahu, aged about 52 Years, R/o Village Mulmula, Post Pendretarai, Tahsil and Police Station, Post Office – Sargoan, District Bemetara, Chhattisgarh.

----Petitioner**Versus**

- Smt. Ghasan Bai, W/o Madal Lal Sahu, aged about 50 Years, Present R/o Village Bhanura, Post Beltara, Police Station Khamhariya, District Bemetara, Chhattisgarh.

----Respondent

For Petitioner Shri Vaibhav A. Goverdhan, Advocate.
For Respondent Shri R.K. Pali, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

20/10/2021

1. The present revision petition under Section 397/401 of Cr.P.C. read with Section 19(4) of the Family Court Act has been preferred against the order dated 22.12.2018 passed by the Family Court, Bemetara, District Bemetara, C.G., in MJC No.70/2017 whereby the Family Court while allowing the application under Section 125 of Cr.P.C. has granted maintenance at the rate of Rs.2,000/- per month in her favour.
2. It is not in dispute that the respondent is the legally wedded wife of the petitioner and out of their wedlock one son namely Dwarika was born. According to the respondent, a few days after the marriage the applicant started beating the respondent and

thereafter ousted her his house and brought another lady as his wife, therefore, the respondent left her matrimonial home and started residing at her parental home at village Dhanora. She contended that the petitioner is not giving any maintenance to her whereas he has 5-6 acres of agricultural land from which he is earning Rs.3 lakhs yearly. Therefore, she prayed for grant of maintenance at the rate of Rs.10,000/- per month from the petitioner.

3. Learned counsel for the petitioner submits that the learned trial Court has failed to appreciate that, for awarding the maintenance, the wife is required to plead and prove that she has no sufficient means to maintain herself and the husband is deliberately avoiding his duty to maintain wife, but in the case in hand, the respondent has neither pleaded nor deposed and proved that she is not in a position to maintain herself and, therefore, the impugned order is illegal and liable to be quashed. He submits that respondent has admitted that for the last 25 years, she is maintaining herself. Respondent has also admitted that she is earning Rs.100/- per day from work, her son is providing her financial help, she is getting Rs.350/- under the "Sukhad Sahayata" and she is having pink card and hence she is getting 35 Kg rice per month which is sufficient for her livelihood and, therefore, the impugned order is bad and erroneous. He further submits that learned Family Court has failed to appreciate that the respondent has failed to prove the requirement of Section 125 of Cr.P.C.

Reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of ***Chaturbhuji vs. Sita Bai*** reported in ***2008 (3) CGLJ 473(SC)***.

4. Learned counsel for the respondent submits that respondent specifically stated that the petitioner is earning Rs.3 lakhs per year from the agricultural land. He submits that petitioner has also purchased some land for his second wife and as per the financial status of the petitioner the Court below has rightly awarded maintenance at the rate of Rs.2,000/- in favour of the respondent.
5. I have learned counsel for the parties and perused the material available on record.
6. Considering the facts and circumstances of the case, the admission of the petitioner that he has already performed marriage with another lady, he has two children from his second wife, the fact that the respondent is dependent upon some Government Scheme and getting little help from his son, the status of the petitioner, his income which has been proved by the respondent and not controverted in the cross-examination, the age of the respondent i.e. 50 years, the fact that the petitioner has deserted the respondent without any reason and married another woman, no strict rule of pleading is applicable in the proceedings under Section 125 of Cr.P.C., the judgment relied by counsel for the petitioner is of no help to him, this Court is of the opinion that the Court below has rightly passed the impugned

order which needs no interference by this Court.

7. Accordingly, the present revision petition being without any substance is dismissed at the admission stage itself.

Sd/-
Gautam Chourdiya
Judge

Akhilesh