

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 80 of 2021

- Krishna Tiwari S/o Late Shri Ramsanehi Tiwari, Aged About 37 Years, R/o Ramayan Chowk, Chatidih, Bilaspur, Police Station Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh (Non-applicant)

---- Petitioner

Versus

- Rajni @ Sonal Tiwari W/o Shri Krishna Tiwari, D/o Shri Buddeshwar Tiwari, R/o Behind Lafagarh Gais Godam, Shubham Vihar Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh (Applicant)

----Respondent

For Petitioner – Shri Pawan Kesharwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-02-2021

1. This petition has been brought under Article 227 of the Constitution of India being aggrieved by the order dated 26-02-2020 passed by the Additional Principal Judge Family Court, Bilaspur, Chhattisgarh.
2. The respondent filed an application under Order 6 Rule 17 of the CPC before the Family Court praying for amendment in her petition under Section 125 of the Cr.P.C. which has been allowed by the impugned order.
3. It is submitted by learned counsel for the petitioner that the impugned order has been erroneously passed by the Family Court by allowing this application for amendment substantial change has occurred in the nature of pleadings of the respondent, which is prejudice against the petitioner. There is clear reference of word children in paragraph 5 of the petition under Section 125 of the Cr.P.C. regarding which the petitioner who is non-applicant in that proceeding has submitted his reply and that is one ground of his contest in the proceeding. Hence, by allowing the amendment application learned Family Court has committed error and such erroneous order is liable to be set aside.

4. The respondent is yet to be noticed.

5. Considered on the submission.

6. From perusal of the petition and the documents filed along with, it is apparently clear that the respondent is sole applicant in the application under Section 125 of the Cr.P.C. and the prayer in relief clause prayer for maintenance has been made only for the respondent. In paragraph 5 of this petition, there is mention that the petitioner is not taking care of maintenance of the respondent and her children. On perusal of the copy of the application under Order 6 Rule 17 of the CPC, it is found that clearly mentioned, that the word 'children' has been mentioned in paragraph 5 by mistake and prayer was made for rectification of the same by allowing the amendment as proposed. After considering the purpose of the petition under Section 125 of the Cr.P.C. which meant only for the respondent, it is clearly made out that mention of 'children' in paragraph 5 of the petition under Section 125 of the Cr.P.C. was clearly a clerical error. Hence, no error has been committed by learned Family Court by allowing the application for amendment by the impugned order. Therefore, this petition does not have any merits, hence it is dismissed at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge