2025:CGHC:25098

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 177 of 2018

Shri Pravin (Jain) Mutha S/o Shri Vijay Kumar Mutha Aged About 43 Years R/o Shailendra Nagar Pachpedi Naka C 77, Beside of Aaditaya Coaching Cente, Vidhan Sabha Road Police Station Tikrapara, Raipur Chhattisgarh

... Applicant

versus

Shrimati Suman Mutha W/o Shri Pravin (Jain) Mutha Aged About 35 Years R/o Dharam Nagar, Pachpedi Near Sai Fancy Stores, After Narendra Kirana, Store, Police Station Tikrapara, Raipur Chhattisgarh.

... Respondent

For Applicant	:	Mr. Vikram Singh, Advocate.
For Respondent	:	Mr. Aman Kesharwani, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

18.06.2025

1. Heard, Mr. Vikram Singh learned counsel, appearing for the applicant as well as Mr. Aman Kesharwani, learned counsel, appearing for the respondent.

2. The present revision has been filed by the applicant with the following prayer:

ABHISHEK SHRIVAS
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"It is therefore, prayed that the Hon'ble Court may kindly be pleased to call for and examine the reocrd and proceeding before the inferior Criminal Court and further also set-aside or change the order dated 14.12.2017 passed by the First Principal Judge, Family Court, Raipur (C.G.) in MJC Case No. 786/16 in the interest of justice."

3. Facts of the case are that the applicant claims that the respondent is the second wife of the applicant, who is already living with his first wife and children. Despite this, the respondent filed an application under Section 125 of the Code of Criminal Procedure before the Family Court, Raipur (C.G.), which was disposed of on the basis of a compromise between both parties before the National Lok Adalat, Bench No. 3, on 23.11.2018. According to the said compromise, the applicant agreed to pay Rs. 5,000/- per month as maintenance. After the passing of that order, the respondent again filed an application for enhancement of the maintenance amount without there being any change in circumstances, and prayed for Rs. 30,000/- per month as maintenance from the non-applicant. (Copy of the application under Section 125 of Cr.P.C. is filed herewith as Annexure P/2.) The applicant, in his written statement, refuted all the allegations and specifically denied the claims made against him. He averred that the respondent was fully aware of the fact that the applicant was already married and had two children. Despite this, she compelled him to engage in a physical relationship with the intention of deriving unlawful benefit. After establishing a

relationship, she continuously pressured and threatened him, stating that if he did not marry her, she would falsely accuse him of rape. Under such pressure, he solemnized marriage with her. (Copy of the reply to the application under Section 125 of Cr.P.C. is filed herewith as Annexure P/3.)

4. On 14.12.2017, the learned Family Court allowed the application for maintenance in the aforementioned case. Being aggrieved by the said order, the applicant has filed this revision petition against the said order, which is annexed herewith as Annexure P/1.

5. Learned counsel for the applicant submits that learned trial Court acted illegally in substantially allowing the application of the respondent without properly considering the evidence and documents produced by the respondent. Hence, the order is liable to be set aside. The learned trial Court exercised its jurisdiction illegally, inasmuch as it ought to have decided the respondent's application on merits. He submits that the trial Court ought to have considered the facts relating to the illegal marriage and the circumstances under which the applicant was compelled to enter into a compromise in the maintenance application. The learned trial Court completely failed to appreciate the evidence of the witnesses and the material adduced by the respondent in its proper perspective and, therefore, arrived at an incorrect conclusion by holding that the respondent is entitled to an enhancement of the maintenance amount in the instant case. He also submits that while passing the order against the present applicant, the learned Family

Court overlooked the vital fact that the applicant has a first wife and two children who are attending college, and he is obliged to fulfill their needs. The second marriage, being solemnized without divorce from the first wife, is illegal in the eyes of law. Therefore, the respondent is not entitled to any maintenance. However, as the applicant entered into a compromise in the Section 125 Cr.P.C. proceedings without contesting the merits of the case, he is liable only for the settlement amount fixed therein. No further enhancement can be claimed by the respondent unless she proves the legality of the marriage under which she is seeking such enhancement. (Copy of the Deposition Sheet is filed and marked herewith as Annexure P/4.), he respondent is also receiving an additional amount of Rs. 2,000/- as maintenance under the Domestic Violence Act case.

6. On the other hand, learned counsel, appearing for the non-applicants opposes the prayer made by the learned counsel for the applicant.

7. I have heard learned counsel for the applicant, perused the pleadings and documents appended thereto.

8. From the perusal of the impugned order, it transpires that the learned Family Court after perusing the material available on record had directed to the applicant to Pay a sum of Rs. 15,000/- to the respondent as a maintenance per month, as citing the applicant's increased income from his medical agency and agricultural land, therefore, order passed by the learned Family Court, Raipur, is just

and proper, as such, I do not find any good ground for interference in this revision petition.

9. Accordingly, the criminal revision, being devoid of merit, is liable to be and is hereby **dismissed**.

Sd/-
(Ramesh Sinha)
Chief Justice

Abhishek