

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

Single Bench

CRIMINAL REVISION NO. 657 /2012 (S.B.)

REVISION PETITIONER/

APPLICANT

(before the family court)

: Smt. Chandrakanti Sidar W/o
Lochan Singh, D/o Ranjeet Sidar,
aged about 26 years, R/o Village
Riyapali, Tahsil Pusore, District-
Raigarh (C.G.)

.R.No. ... *657/12*
Presented by Shri ... *K. N. Nene*
dated ... *5.10.12*

VERSUS

RESPONDENT/

Non-APPLICANT

: Lochan Sidar S/o Gopal Sidar,
aged about 32 years, R/o
Gaurbahri, Tahsil and District -
Raigarh (C.G.)

CRIMINAL REVISION UNDER SECTION 19(4) OF THE
FAMILY COURT ACT



25/3

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Revision No. 657 of 2012

Revision Petitioner

Smt. Chandrakanti Sidar

Applicant

(before the Family Court)

Vs

Respondent

Lochan Sidar

Non-applicant

Present:

Mr. K.N. Nande, counsel for the applicant.

Mr. Tarkeshwar Nande, counsel for the respondent.

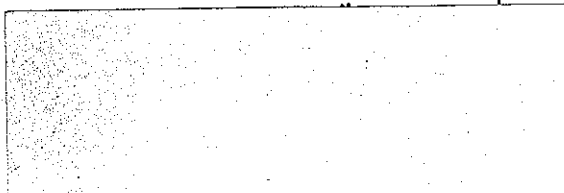
ORDER (oral)
(28th June, 2013)

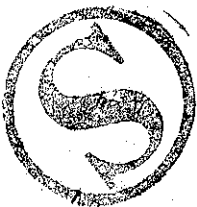
G. Minhajuddin, J

This criminal revision has been preferred by the applicant/wife under Section 19(4) of the Family Courts Act against the order dated 4.8.2011 passed by Judge, Family Court, Raigarh in Cr.M.J.C.No.89/10, whereby application of the applicant/wife under Section 125 of Cr.P.C. for grant of monthly maintenance has been rejected.

The undisputed facts of the case are that marriage of the applicant with the respondent was solemnized on 29.4.2009 as per Hindu rites and customs at Village-Riyapali, Distt. Raigarh and presently the applicant/wife is residing separately from the respondent/husband at her parents' house.

As per averments made in the application filed under Section 125 of Cr.P.C. by the applicant/wife, after 5-6 months of her marriage with the respondent, she was harassed and tortured by the respondent and his family members mentally and physically in connection with demand of dowry and was ultimately ousted from her matrimonial home, therefore, she was compelled to reside at her parent's house. She has also alleged that the respondent has illegally contracted second marriage. She has further averred that she has no source of income to maintain herself whereas the respondent has 10 acres of agriculture land, from which he earns Rs.15000/- per month. With the aforesaid averments, she claimed maintenance of Rs.5000/- per month from the respondent.





In reply to the above application, the respondent has denied all the adverse averments made against him by the applicant and stated that the applicant was never subjected to cruelty or ill-treatment by the respondent or his family members in connection with demand of dowry. In fact, the applicant had herself of her own accord left her matrimonial home and is residing at her parents' house. He has also denied that he has contracted second marriage. On the contrary, he has expressed his readiness and ^{willingness} ~~witness~~ to keep the applicant with him.

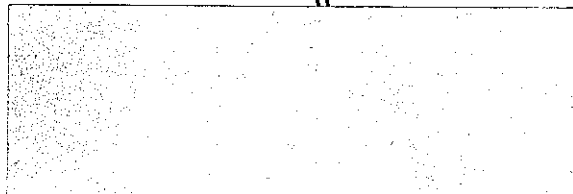
Learned Judge, Family Court, Raigarh, after hearing the parties and considering the material, oral and documentary, available on record, having found that the applicant is residing separately from the respondent without any just and reasonable cause, by the impugned order rejected the application of the applicant filed under Section 125 of Cr.P.C.

Heard learned counsel for the parties, perused the material available on record, including the impugned order.

The question to be decided in the revision is – whether the Judge, Family Court, Raigarh has committed any illegality or impropriety in passing the impugned order dated 4.8.2011, thereby rejecting the application filed under Section 125 Cr.P.C. by the applicant/wife?

In order to substantiate the averments made in her application under Section 125 of Cr.P.C., in addition to herself as AW-1, the applicant/wife has examined Ramlal Sidar and Dilip Sidar as AW-2 and AW-3 respectively, whereas the respondent/husband has examined himself as NAW-1, Ranjeet Mirdha as NW-2 and Murarilal Yadav as NWA-3.

From perusal of the impugned order dated 4.8.2011 as well as the oral and documentary evidence available on record, it is found that the applicant has failed to prove that she has a sufficient and reasonable cause for living separately. Ramlal Sidar (AW-2) and Dilip Sidar (AW-3) examined on behalf of the applicant/wife have admitted in their cross-examination that a criminal case is pending against them in respect of assaulting father of the respondent/husband and setting their house on fire. Moreover, these witnesses are not the residents of





village of the applicant, on the contrary, they reside at Village-Gourbahri, where the respondent/husband resides. In such a state of affairs, taking into consideration that there is previous enmity between these witnesses (AWs-2 & 3) and family of the respondent/husband, these witnesses cannot be termed as an independent witness and as such, only on the basis of their statements, without there being any other oral or documentary evidence in support thereof, it cannot be said that the respondent/husband has subjected the applicant/wife to cruelty in connection with demand of dowry or has contracted second marriage, on account of which the applicant/wife was compelled to live separately at her parents' house. On the other hand, on the basis of preponderance of probabilities, it stands established that the applicant/wife is living separately without any just and reasonable cause, of her own accord.

On the basis of aforesaid discussion, I am of the opinion that the Judge, Family Court, Raigarh has not committed any illegality or impropriety in passing the impugned order dated 4.8.2011 rejecting the application filed by the applicant/wife under Section 125 of Cr.P.C.

In the result, the revision petition being devoid of substance deserves to be and is hereby dismissed.

Sd/-
G. Minhajuddin
Judge