



2025:CGHC:38893

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 311 of 2023**

Santosh Suryavanshi S/o Shri Dilip Suryavanshi Aged About 32 Years
R/o Leprosy Hospital Road, Ward No. 46, Basantpur, District -
Rajnandgaon Chhattisgarh.

... Applicant**versus**

Hemlata @ Himanshi Suryavanshi D/o Mangal Bhawe Aged About 30
Years R/o New Sahu Para, Near Dipak Kirana Store, Khamtarai, District
Raipur Chhattisgarh.

... Respondent

For Applicant : Mr. Parag Kotecha, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****05.08.2025**

1. This criminal revision has been filed by the applicant with the following prayer:

*"The applicant, therefore humbly prays that
the Hon'ble court kindly be pleased to call for
the record of the courts below and the order
dated 18/10/22, passed by learned Second
Additional Principal Judge, Family Court,
Raipur in Case No. 783/220, may kindly be*

RAHUL
DEWANGAN

Digitally
signed by
RAHUL
DEWANGAN

please to set aside in the interest of justice.”

2. The facts, in brief, is that the applicant, a citizen of India entitled to all fundamental and constitutional rights, states that the parties had obtained a mutual divorce under Section 13-B of the Hindu Marriage Act by judgment and decree dated 29.06.2016, wherein it was specifically recorded that no balance amount remained to be paid between them and both parties agreed to live separately of their own accord. Earlier, by order dated 25.09.2012 passed in Criminal M.J.C. No. 527/2011 by the Family Court, Raipur, the applicant had been directed to pay maintenance of ₹800/- per month to the respondent under Section 125 of the Cr.P.C. Subsequently, on 10.08.2015, an agreement was executed between the parties reiterating that no dues remained. Despite this, the respondent filed an application under Section 127 Cr.P.C. seeking enhancement of maintenance, to which the applicant filed an application under Section 127(3) Cr.P.C. for closure of proceedings on the ground of mutual divorce and settlement. The learned Family Court, however, by order dated 18.10.2022, rejected the applicant's application, observing that the original maintenance order under Section 125 Cr.P.C. had not been cancelled. Aggrieved by the said order, the applicant has preferred this revision petition.
3. Learned counsel appearing for the applicant submits that the impugned order dated 18.10.2022 passed by the learned Family Court is bad in law as well as on facts and deserves to be set aside, as the court below has exercised jurisdiction illegally and without

proper application of mind, resulting in a miscarriage of justice. The learned Family Court erred in rejecting the applicant's application under Section 127(3) Cr.P.C. despite the existence of a mutual divorce decree and a prior agreement clearly recording that no dues remained between the parties. The court further failed to appreciate that, in view of the mutual divorce and the provisions of Section 125(4) Cr.P.C., the respondent was not entitled to maintenance, particularly when she neither pleaded nor proved any contrary facts or income details. The order suffers from complete non-consideration of material facts, misapplication of legal provisions, and exercise of jurisdiction not vested in the court, rendering it unsustainable in the eyes of law.

4. I have heard learned counsel for the applicant, perused the pleadings and documents appended thereto.
5. From the perusal of the impugned order, it transpires that the learned Family Court, by its order dated 18.10.2022, has rightly rejected the applicant's application under Section 127(3) Cr.P.C., as the original maintenance order dated 25.09.2012 passed under Section 125 Cr.P.C. had neither been cancelled nor modified by any competent court and, therefore, continued to remain operative. The mere fact of mutual divorce and an alleged private agreement between the parties could not, in law, extinguish or override a judicial order granting maintenance, particularly when no application for cancellation of such order under the relevant provisions was made. The Family Court, thus, acted within its jurisdiction, in due compliance with statutory provisions, and

committed no error in holding that the applicant remained bound by the subsisting maintenance order.

6. Considering the submission advanced by the learned counsel for the applicant and perusing the impugned order and the finding recorded by the learned Family Court, I am of the view that the Family Court has not committed any illegality or infirmity or jurisdictional error in the impugned order warranting interference by this Court.
7. Accordingly, the criminal revision, being devoid of merit, is liable to be and is hereby **dismissed**.
8. Let a copy of this order be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ramesh Sinha)
Chief Justice

Rahul Dewangan