



2026:CGHC:15295-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 176 of 2026

Jalaj Thawait S/o Dhananjay Thawait Aged About 40 Years R/o Kaamred Sudheer Mukherjee Ward, Hanuman Mandir, Tehsil And District- Raipur, Chhattisgarh.

... Petitioner(s)

versus

1 - Smt. Hemlata Thawait W/o Jalaj Thawait Aged About 39 Years R/o Near Ambedkar Chowk, Shankar Nagar, Tehsil And District- Durg, Chhattisgarh.

2 - Kumari Mughda Thawait D/o Jalaj Thawait Aged About 13 Years Minor Through Natural Guardian Mother Smt. Hemlata Thawait, R/o Near Ambedkar Chowk, Shankar Nagar, Tehsil And District- Durg, Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. Purnendra Khichariya, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

02/04/2026

1. The present writ petition has been filed under Article 226 of the Constitution of India by the petitioner challenging the order dated 08.01.2026 wherein the petitioner has moved an application under Section 379 of BNSS for registration of FIR for the offence committed under Section 227, 228, 229, 236, 237, 242, 246, 248 of BNS, which has been rejected by the learned Family Court.
2. The present writ petition has been filed by the petitioner with the following prayers:

“10.1 That, the Hon'ble Court may kindly be pleased to allow this petition and kindly direct for registration of the FIR against the respondent for filing false affidavit before the Family Court below.

10.2 The Hon'ble Court may kindly be pleased to allow the application under Section 379 of the BNSS for registration of the FIR for the offence committed under Section 227, 228, 229, 236, 237, 242, 246, 248 of BNS, 2023 against the respondent for fabricating evidence before Family Court below.

10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner.”

3. That, the brief facts of the present case are that the respondent

filed an application under Section 127(1) of the Cr.P.C. before the learned Family Court, Durg, which was registered as MJC Case No. 593/2024, seeking modification/enhancement of maintenance, pursuant to which notice was issued and duly served upon the petitioner, who appeared and filed his reply along with supporting documents (Annexure P-4). The respondent, in support of her claim, submitted an affidavit disclosing her income and expenditure in terms of the guidelines laid down by the Hon'ble Supreme Court in *Rajnish vs. Neha* (Annexure P-2). The petitioner also filed his affidavit and, upon scrutiny, found that the respondent had allegedly misled the Court by submitting false and incorrect information. Consequently, the petitioner moved an application under Section 379 of the BNSS seeking registration of FIR for offences under various provisions of BNS, 2023, however, the learned Family Court rejected the said application and proceeded to fix the matter for evidence on 07.02.2026, without properly considering the petitioner's objections, thereby giving rise to the present petition.

4. Learned counsel for the petitioner would submit that the present application preferred by the respondent under Section 127(1) of the Cr.P.C. is wholly misconceived, baseless and filed with an ulterior motive to mislead this Hon'ble Court and extract undue financial benefit. The respondent has deliberately suppressed material facts and furnished a false affidavit regarding her income, educational qualifications, and receipt of maintenance, in clear

violation of the guidelines laid down by the Hon'ble Supreme Court in *Rajnish vs. Neha*. It is an admitted position from her own cross-examination that she has been continuously receiving maintenance and that no arrears are due, contrary to the averments made in her application. Further, the respondent has concealed her independent sources of income, including benefits received under government schemes, and has relied upon fabricated and unverified documents, thereby committing fraud upon the Court. The learned Family Court has failed to appreciate these material contradictions and has erroneously rejected the petitioner's application seeking appropriate action for offences relating to false evidence under the provisions of BNS, 2023 read with BNSS. In light of the above, it is humbly prayed that this Hon'ble Court may be pleased to set aside the impugned proceedings/orders, take strict action against the respondent for filing false and misleading affidavits, and dismiss the application for enhancement of maintenance, in the interest of justice.

5. We have heard learned counsel for the petitioner and perused the material annexed with the petition.
6. Having considered the facts of the case and upon perusal of the material available on record, it is evident that the controversy involved in the present petition is no longer *res integra* and stands squarely covered by the judgments rendered by the **High Court of Allahabad in Misc. Bench No. 24492 of 2020 : Waseem Haider Vs. State of U.P. Through Principal Secretary, Home**

Others (Misc. Bench No. 24492 of 2020, decided on 14.12.2020) as well as by this Hon'ble Court in **WPCR No. 333 of 2020 Akhilesh Agrawal v. State of Chhattisgarh & Others**, decided on 12.04.2023, wherein it has been categorically held that in such matters, the petitioner has an efficacious alternative remedy to approach the competent Magistrate under the relevant provisions of law for redressal of his grievance. In view of the settled legal position and availability of statutory remedies, no interference is warranted in the present petition under writ jurisdiction.

7. Accordingly, the present writ petition is **dismissed** with liberty to the petitioner to avail the appropriate remedy before appropriate Forum.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice