



2025:CGHC:38889



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 362 of 2023**

Mohammad Atik S/o Anwar Khan Aged About 32 Years R/o House No. 1937, Street No. -08 Khawaja Gareeb Nawaj Masjid, V.V. Vihar, Aman Nagar, Mova Raipur, District : Raipur, Chhattisgarh

... Applicant**versus**

1 - Smt. Salma Parveen W/o Mohammad Atik, D/o M.S. Sheikh, Aged About 32 Years R/o Block No. K - 4/76, Laxmi Market, Zone - 02, Khursipar, Police Station - Khursipar, Bhilai, Tehsil And District - Durg, Chhattisgarh.

2 - Mohammad Rafiq S/o Mohammad Atik Aged About 7 Years Minor Through Legal Guardian Smt. Salma Parveen (Mother), R/o Block No. K - 4/76, Laxmi Market, Zone - 02, Khursipar, Police Station - Khursipar, Bhilai, Tehsil And District - Durg, Chhattisgarh.

... Respondents

For Applicant : Mr. Shubhank Tiwari, Advocate

For Respondents : None

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:

*"It is therefore, most humbly prayed that the
Hon'ble Court may kindly be pleased to allow*



the instant revision petition and order dated 06.02.2023, passed by the 3rd Additional Principal Judge (Family Court) Durg (C.G.), passed in MJC No. 362/2018, passed in case of "Mohammad Atik v. Salma Praveen & Another" i.e. Annexure – A/1 and order dated 02.06.2009 passed by 1st Additional Principal Judge (Family Court) Durg (C.G.), passed in MJC no. 20/2008, passed in case of "Salma Parveen & Another V. Mohammad Atik" i.e. Annexure A/2 may kindly be set- aside in the interest of justice."

2. The facts, in brief, is that the respondent No. 1, claiming herself to be the legally wedded wife of the applicant, filed an application under Section 125 Cr.P.C. in MJC No.20/2008 before the learned 1st Additional Principal Judge, Family Court, Durg, seeking maintenance for herself and her minor son, respondent No.2. Vide interim order dated 08.02.2008, maintenance of ₹1,500/- per month to respondent No. 1 and ₹500/- per month to respondent No.2 was granted, and subsequently, by ex-parte final order dated 02.06.2009, the applicant was directed to pay ₹2,000/- per month to respondent No. 1 and ₹1,000/- per month to respondent No.2. The applicant, alleging that he could not appear in the proceedings due to threats to his life from respondent No. 1 and her associates and that he remained in hiding until 2018, moved an application under Section 126(2) Cr.P.C. for setting aside the ex-parte order, which



was dismissed on 25.02.2019 on the ground of delay. Thereafter, on 24.10.2018, the applicant filed the present application under Sections 125(4) and 125(5) Cr.P.C., contending that respondent No. 1 was living in adultery even prior to and during the subsistence of marriage, had subsequently remarried on 20.01.2018 after obtaining a decree of divorce on 21.07.2014, and had fraudulently obtained maintenance by projecting another child, Rehan Khan, as Mohammad Rafiq born from the wedlock with the applicant. The applicant further sought production of Aadhaar and Ration Cards of respondent No. 1 and filed applications under Order XI Rule 12 CPC, Section 91 Cr.P.C., and Section 151 CPC for the said documents, but the same were not decided separately. The respondent No. 1 denied the allegations and opposed the application. Upon hearing, the learned Family Court, by order impugned, rejected the application holding that the applicant failed to prove adultery and directed him to continue paying maintenance till the date of respondent No. 1's second marriage, i.e., 20.01.2018,. Aggrieved thereby, the present revision has been preferred.

3. Learned counsel appearing for the applicant submits that the impugned order is illegal, erroneous and contrary to law inasmuch as the learned Family Court failed to appreciate the material facts and evidence on record, respondent No. 1 was living in adultery even during subsistence of marriage and had herself filed proceedings under Section 2 of the Dissolution of Muslim Marriages Act, 1939, which were allowed ex-parte on 21.07.2014. He further



submits that in her Ration Card and Voter ID, she has mentioned Arman Khan as her husband, and further, the child for whom maintenance is claimed is shown in school and birth records as Rehan Khan S/o Arman Khan with the same date of birth (11.04.2007) as “Mohammad Rafiq” mentioned in the maintenance application, thereby creating serious doubt about paternity. He also submits that depositions of her parents and witnesses in the connected criminal case under Section 498-A IPC also corroborate that the child is of Arman Khan; that despite repeated applications by the applicant for production of Aadhaar, Ration Card and school records, the respondent failed to produce any evidence proving that Mohammad Rafiq is the applicant’s son and even the alleged second marriage of respondent No.1 on 20.01.2018 is unsubstantiated by any documentary proof. Hence, the Family Court erred in directing maintenance till the said date and the impugned order deserves to be set aside.

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 has rightly passed the impugned order after due appreciation of the pleadings, documentary evidence and depositions of the parties. The Court, while considering the applicant’s allegations of adultery and fraudulent claim of maintenance, correctly observed that no cogent or reliable evidence was produced to substantiate such allegations and that mere discrepancies in the names or documents relied upon by the



applicant were insufficient to disprove the paternity of respondent No.2 or to establish the alleged adultery of respondent No. 1. The Family Court further took note of the admitted decree of divorce dated 21.07.2014 and, upon considering the claim of subsequent marriage of respondent No.1 on 20.01.2018, appropriately restricted the applicant's liability to pay maintenance only up to the date of such marriage, in accordance with law under Section 125(4) and (5) Cr.P.C. The findings are based on proper evaluation of evidence, are consistent with the settled principles governing maintenance.

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 as well as original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ramesh Sinha)
Chief Justice