



2026:CGHC:3697

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 995 of 2023

1 - Smt. Neha Pandey W/o Shri Anil Pandey Aged About 28 Years R/o Mungeli Naka, Bilaspur, Tahsil And District Bilaspur (C.G.) At Present R/o Ward No. 54 Sarvamangla Mandir Parishad, Musmunda, Korba, District Korba (C.G.)

2 - Atharv Pandey S/o Anil Pandey Aged About 7 Years Mother Of The Natural Guadian Applicant No. 2 And Mother Of The Applicant No. 1 R/o Mungeli Naka, Bilaspur, Tahsil And District Bilaspur (C.G.) At Present R/o Ward No. 54 Sarvamangla Mandir Parishad, Musmunda, Korba, District Korba (C.G.)

... Applicants

versus

Anil Pandey S/o Umesh Dutta Pandey Aged About 34 Years Constable No. 584, Rajbhavan, Raipur, Tahsil And District Raipur (C.G.) At Present Resident Of House No. C-71, Second Battalion, Sakri, Battalion, Tahsil Takhatpur, District Bilaspur (C.G.)

... Respondent

For Applicants	: Mr. Kamlesh Kumar Pandey, Advocate
For Respondent	: Mr. Vijay K. Deshmukh, Advocate along with Ms. Tejaswi Mandawi, Advocate
For Intervener	: Mr. Brajendra Singh, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

21.01.2026

1. Heard on I.A. No.01/2025 which is an application for impleadment and intervention in the instant case.

RAHUL
DEWANGAN

Digitally
signed by
RAHUL
DEWANGAN

2. Learned counsel for the intervener submits that while passing the order dated 16.08.2023 in M.J.C. No. 948/2018, the learned Family Court, Bilaspur, has recorded specific and stigmatic findings alleging that applicant No.1 was living in adultery with the present intervener, without impleading him as a party to the proceedings and without affording him any opportunity of hearing, thereby causing serious prejudice to his rights, reputation and dignity and violating the principles of natural justice. It is contended that such findings could not have been recorded in the absence of the alleged adulterer, as it is well settled that before returning any finding of adultery, the person against whom such allegation is made ought to be impleaded as a necessary or at least a proper party. Learned counsel submits that under Section 10 of the Family Courts Act, read with Order I Rule 10(2) of the Code of Civil Procedure, the Family Court is empowered and obliged to add any person whose presence is necessary for effective and complete adjudication of the issues involved. Reliance is placed upon the judgments of the Hon'ble Supreme Court in Anil Kumar Singh v. Shivnath Mishra (1995) 3 SCC 147 and Razia Begum v. Sahebzadi Anwar Begum (AIR 1958 SC 886), as well as on the decision in Arun Kumar Agrawal v. Radha Arun (AIR 2003 Karnataka 508), wherein it has been held that the object of Order I Rule 10(2) CPC is to bring on record all persons necessary for a complete and final decision and that an alleged adulterer is at least a proper party to such proceedings. Further reliance is placed on the judgment of this Hon'ble Court in Bhaktvatsal Singh Rajput v. Vandana Rajput, decided on 09.03.2018 in W.P.(227) No. 553/2013, reported in

(2018) AIR (Chhattisgarh) 190, wherein similar principles have been reiterated. On these grounds, it is submitted that the adverse findings recorded by the learned Family Court against the intervener are perverse, unsustainable in law and liable to be quashed, and that the intervener deserves to be impleaded as a necessary party for proper and effective adjudication of the matter.

3. Considering the submissions made by learned counsel for the intervener, the material available on record and the nature of proceedings before the learned Family Court, this Court is of the considered opinion that the application filed by the intervener does not merit acceptance. The proceedings in question arise out of a petition under Chapter IX of the Code of Criminal Procedure, wherein the scope of inquiry is summary in nature and confined to determination of entitlement to maintenance, and not to adjudicate upon civil rights or to finally decide issues of adultery in the strict sense as contemplated under matrimonial laws. The learned Family Court, while appreciating the evidence on record, has recorded its findings only for the limited purpose of deciding the maintenance claim, and no independent relief or adverse order has been passed against the intervener. In such proceedings, impleadment of an alleged adulterer is neither mandatory nor necessary, and the findings recorded by the learned Family Court cannot be said to be illegal, perverse or in violation of principles of natural justice. This Court finds no infirmity or illegality in the approach adopted by the learned Family Court, nor any ground warranting interference or impleadment of the intervener at this stage.

4. Accordingly, I.A. No. 1, being the application for impleadment and intervention in the instant case, stands **rejected**.
5. This criminal revision has been filed by the applicants with the following prayer:

“It is therefore most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the impugned order dated 16.08.2023 and suitably enhance the maintenance amount in favour of applicants, in the interest of justice.”

6. The facts of the case, in brief, are that the applicants, wife and minor son of the respondent, filed an application under Section 125 of the Code of Criminal Procedure seeking maintenance, pleading that the marriage between applicant No.1 and the respondent was solemnized on 22.11.2009 and that after marriage she was subjected to cruelty by the respondent and his family members on account of dowry demand, as a result of which she was ultimately ousted from the matrimonial home and is presently residing at her parental house in District Korba (C.G.). It was further pleaded that the respondent is working as a Constable in the Police Department earning about Rs.43,133/- per month and also owns around five acres of agricultural land, yet he has failed to provide any maintenance. It was also stated that applicant No.1 has no independent source of income and applicant No.2 is a school-going child requiring expenses towards education, food and other necessities. The respondent filed his reply denying the allegations

and contending that applicant No.1 is living in adultery and, therefore, is not entitled to maintenance. Upon appreciation of the pleadings and evidence on record, the learned Family Court, by impugned order dated 16.08.2023, partly allowed the application by awarding maintenance of Rs.6,500/- per month in favour of applicant No.2 (minor son) and rejected the claim of applicant No.1 holding that she is living in adultery and hence disentitled to maintenance. Being aggrieved by the said order, the applicants have preferred the present revision.

7. Learned counsel for the applicants submits that the impugned order dated 16.08.2023 passed by the learned Family Court is bad in law, perverse and erroneous, inasmuch as the finding that applicant No.1 is living in adultery has been recorded without there being any cogent, legal and reliable evidence on record. It is contended that mere production of photographs, that too of a social occasion like the Bhai Dooj festival, cannot constitute proof of adultery, particularly when the applicant No.1 has specifically explained that she shares a brother-sister relationship with the said Sher Singh Kushwaha, and the learned Family Court failed to appreciate the said explanation in its proper perspective. It is further argued that even the testimony of the witness Shivani Kushwaha, examined by the respondent, does not satisfy the strict standard of proof required to establish adultery under Section 125 Cr.P.C. Learned counsel submits that the learned Family Court has also failed to consider the settled position of law that allegations of adultery must be proved by clear, convincing and clinching evidence and cannot be inferred on

mere suspicion or conjectures. Reliance is placed on the judgment of the Delhi High Court in MAT.APP.(F.C.) Nos. 251/2025, 256/2025, 275/2025 and 285/2025 (decided on 29.08.2025), wherein it has been held that maintenance cannot be denied on the basis of unsubstantiated allegations and stray material.

8. Learned counsel for the applicants further relies upon the decision of the Madhya Pradesh High Court in Subhash Chandra Nagayach v. State of M.P., (2022) 3 MPWN 61, and the judgment of this Hon'ble Court in Bhaktvatsal Singh Rajput v. Vandana Rajput, (2018) AIR (Chhattisgarh) 190 : (2018) 3 CGLJ 281, to submit that adverse and stigmatic findings affecting civil rights cannot be recorded without strict adherence to principles of evidence and natural justice. Reliance is also placed on Criminal Revision No. 322 of 2016 (Smt. Uma Bai v. Hemant Singh Kanwar), wherein this Hon'ble Court has held that a wife cannot be denied maintenance merely on doubtful or insufficient proof of adultery. It is further submitted that the learned Family Court has failed to adequately consider the needs of applicant No.2, a school-going child, and the earning capacity of the respondent, who is a Police Constable drawing a monthly salary of about Rs.43,133/- and also owning agricultural land, while the applicants are residing in a rented accommodation. Hence, the impugned order, insofar as it denies maintenance to applicant No.1 and grants an inadequate amount, deserves to be set aside.
9. On the other hand, learned counsel, appearing for the respondent opposes the prayer made by the learned counsel for the applicants

and supports the impugned order passed by the learned Principal Judge, Family Court, Bilaspur, District- Bilaspur, (C.G.).

10. I have heard learned counsel for the parties, perused the pleadings and documents appended thereto.
11. From the perusal of the impugned order, it transpires that the learned Family Court, upon due consideration of the pleadings, evidence and material available on record, has rightly appreciated the facts and circumstances of the case and has passed a just and proper order. The learned Family Court has recorded a categorical finding, on appreciation of oral as well as documentary evidence, that applicant No.1 was living in adultery and, therefore, was disentitled to maintenance under Section 125(4) of the Code of Criminal Procedure, while simultaneously safeguarding the interest of the minor son by awarding maintenance of Rs.6,500/- per month in his favour. The finding regarding adultery is a finding of fact, based on the material available on record, and no perversity or patent illegality has been pointed out so as to warrant interference in revisional jurisdiction. The judgments relied upon by learned counsel for the applicants, including the decisions of the Delhi High Court, the Madhya Pradesh High Court in Subhash Chandra Nagayach (2022) 3 MPWN 61, and this Court in Bhaktvatsal Singh Rajput v. Vandana Rajput (2018) AIR (Chhattisgarh) 190, as well as Smt. Uma Bai v. Hemant Singh Kanwar (Criminal Revision No. 322 of 2016), are distinguishable on facts, as in the present case the learned Family Court has arrived at its conclusion after due appreciation of evidence led by the parties. It is well settled that

once a wife is found to be living in adultery, she is statutorily barred from claiming maintenance, and this Court does not find that the said finding suffers from arbitrariness or is based on mere conjectures. The needs of applicant No.2 have been duly considered and adequately protected by the learned Family Court.

12. Considering the submission advanced by the learned counsel for the parties 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.
13. Accordingly, the criminal revision, being devoid of merit, is liable to be and is hereby **dismissed**.
14. Let a certified 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

Rahul Dewangan