



2026:CGHC:13197

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 2357 of 2019**

Santan S/o Magudo Yadav Aged About 40 Years Caste - Mahkul ,
Resident Of Village Dhodharamba ., P.S. Bageecha, District Jashpur
Chhattisgarh...(In Jail) (Non Applicant)

... Petitioner(s)**versus**

Puniyaso Bai W/o Santan Aged About 35 Years Resident Of Village
Dhodharamba , P.S. Bageecha, District Jashpur Chhattisgarh...
(Applicant)

... Respondent(s)

For Petitioner(s) : Mr. Gajendra Sahu, Advocate

For Respondent(s) : Mr. Sajeev Kumar Sahu, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****19.03.2026**

1. Heard Mr. Gajendra Sahu, learned counsel for petitioner. Also heard Mr. Sajeev Kumar Sahu, learned counsel for respondent.
2. The present petition has been filed by the petitioner with the following prayers:



“It is therefore, that this Hon'ble Court may kindly be pleased to allowed this petition and set- aside the impugned order dated 17.05.2019 passed by the learned Family Court Jashpur, District Jashpur, Chhattisgarh, in Misc. Criminal case No. 24/2017, in the interest of justice.”

3. The present case arises from proceedings under Section 125 of the Cr.P.C. wherein the respondent was granted maintenance by the learned Family Court, Jashpur in Misc. Criminal Case No. 113/2015. However, the applicant failed to comply with the said order and did not pay the maintenance amount. Thereafter, the respondent initiated recovery proceedings under Section 125(3) Cr.P.C. for arrears of Rs. 82,500/-, registered as Misc. Criminal Case No. 24/2017, in which the learned Family Court issued a permanent arrest warrant against the applicant vide order dated 04.01.2018, pursuant to which the applicant was arrested on 17.05.2019 and sent to District Jail, Jashpur. Aggrieved by the said order and consequential action, the applicant has filed the present petition challenging its legality.
4. Learned counsel for the petitioner submits that the impugned order dated 17.05.2019 passed by the learned Family Court is wholly illegal, arbitrary and contrary to the settled principles of law, and therefore liable to be set aside, inasmuch as the court below has failed to appreciate the factual and legal aspects of the matter in their proper perspective. It is contended that the respondent had voluntarily left the matrimonial home without any sufficient cause and, therefore, is not entitled to claim maintenance under Section



125 of the Code of Criminal Procedure, however, this material aspect has been completely overlooked by the learned court below. It is further submitted that the petitioner is unemployed and has no independent source of income, due to which he was genuinely unable to comply with the maintenance order, yet the learned Family Court proceeded to issue coercive process without considering his financial incapacity. It is also submitted that the quantum of maintenance awarded is excessive and disproportionate to the petitioner's means and is liable to be suitably reduced. Additionally, the impugned order has been passed in absence of the petitioner without affording adequate opportunity of hearing, thereby violating principles of natural justice. It is further contended that the petitioner is himself dependent and under financial constraints, which has not been taken into account by the learned court below. Thus, the impugned order suffers from non-application of mind and has been passed in an arbitrary manner, rendering it unsustainable in the eyes of law and liable to be quashed.

5. On the other hand, learned counsel for the respondent submits that the impugned order dated 17.05.2019 passed by the learned Family Court is legal, just and in accordance with law, warranting no interference by this Court. It is contended that the respondent, being legally wedded spouse, was compelled to initiate proceedings under Section 125 of the Code of Criminal Procedure due to neglect and failure on the part of the petitioner to maintain



her, and the learned Family Court, after due consideration of the material available on record, has rightly granted maintenance in her favour. It is further submitted that despite the subsisting order, the petitioner willfully and deliberately failed to comply with the same, thereby forcing the respondent to initiate recovery proceedings under Section 125(3) Cr.P.C., wherein the learned court below has rightly exercised its jurisdiction in issuing coercive process including arrest for recovery of arrears.

6. I have heard learned counsel for the parties and perused the documents appended with petition.
7. A perusal of the impugned order would reveal that the learned Family Court, upon receipt of the record of Misc. Criminal Case No. 24/2017, found that despite the earlier order granting maintenance in favour of the respondent herein and issuance of a permanent arrest warrant dated 04.01.2018 for recovery of arrears amounting to Rs.82,500/-, the petitioner herein had willfully failed to comply with the said order and had neither paid the outstanding amount nor made any bona fide effort towards its discharge. The Court further recorded that upon being produced, the petitioner expressly refused to pay the arrears and no order of stay or suspension of the maintenance order had been obtained from any superior court, thereby rendering the subsisting order binding and enforceable. Accordingly, considering the prolonged non-compliance, the magnitude of arrears, and the deliberate conduct of the respondent, the learned Family Court deemed it appropriate to invoke coercive



measures under Section 125(3) of the Cr.P.C. and directed that the petitioner be taken into custody and undergo rigorous imprisonment for a period of one year, with a further direction that any income or remuneration earned by him during incarceration be paid towards the maintenance of the respondent, and also provided that in the event of payment of the entire outstanding amount, the petitioner would be released in accordance with law.

8. In view of the foregoing discussion and upon due consideration of the material available on record, this Court is of the opinion that the impugned order passed by the learned Family Court does not suffer from any illegality, perversity or jurisdictional error warranting interference. The learned court below has rightly exercised its powers under Section 125(3) of the Code of Criminal Procedure in view of the continued and willful non-compliance of the maintenance order by the petitioner. Accordingly, the present petition, being devoid of merit, is **dismissed**. No order as to costs.

Sd/-
(Ramesh Sinha)
Chief Justice