



CGHC010490892025



2026:CGHC:28454

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1416 of 2025

Smt. Susmita Deb, W/o. Phalguni Deb, Aged About 44 Years R/o 1689/8, Sector-2, Jhanda Chowk, Shivanand Nagar, Ps Khamtarai, District Raipur (C.G.)

---Applicant(s)

versus

Phalguni Deb, S/o Deepak Deb, Aged About 44 Years Permanent R/o Flat No. 2-B, Sudha Apartment, 197 J.N. Bose Road, Subhas Gram Near Railway Gate, Post- Kodalia, Ps Sonarpur Kolkata (W.B.) Pin Code 700146 (Correct Detailed Address Has Been Mentioned Which Was Not Mentioned In Impugned Order) Also At- Overlook At Bear Creek, 800 E Ash Lane, Apartment- 2123, Euless Texas (U.S.) Zip Code 76039-4700

--- Respondent(s)

For Applicant(s) : Mr. Kamlesh Patel, Advocate.

For Respondent(s) : Mr. Hemant Kesharwani, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board

09/07/2026

1. Heard Mr. Kamlesh Patel, learned counsel for the applicant as well as Mr. Hemant Kesharwani, learned counsel for the respondent. Challenge in this revision petition filed under Section 19(4) of the Family Courts Act, 1984, is to the order dated 08.10.2025 passed by the First Additional

Principal Judge, Family Court, Raipur, in M.C.C. No. 229/2020, by which the application filed under Section 125 of the Criminal Procedure Code, 1973, by the revisioner seeking maintenance to the tune of Rs. 2 Lacs per month, has been rejected.

2. Mr. Kamlesh Patel, learned counsel for the applicant, submits that the marriage between the applicant and the respondent was solemnized on 30.01.2019 according to Hindu rites and customs. At the time of marriage, the applicant's parents allegedly gave sufficient gold and silver jewellery, furniture, household articles, cash and other customary gifts. Soon after the marriage, the applicant started residing at her matrimonial home in Kolkata, where she was allegedly subjected to cruelty and persistent demands for dowry by the respondent and his family. It is submitted that during the reception held at Raipur, the respondent and his family expressed dissatisfaction with the articles given in marriage and demanded additional items such as an AC, LED television and a car, besides insisting that the applicant disclose details of her parental properties and finances. It is further submitted that although the applicant was employed at Pune and the respondent was working in Dallas, Texas (USA), the respondent's family repeatedly pressured the applicant to part with her salary, retained a substantial portion thereof and compelled her to bear household expenses whenever she stayed at Kolkata. The demands for dowry and harassment allegedly continued during subsequent visits of the parties to Kolkata and Raipur.
3. Mr. Patel submits that the applicant ultimately resigned from her employment and accompanied the respondent to the United States on 19.07.2019 in order to reside with him. However, even in the USA, she was allegedly subjected to physical and mental cruelty, including assault, verbal abuse, confinement, denial of household expenses and

continuous pressure to secure employment. It is further alleged that on 08.12.2019, the respondent physically assaulted the applicant and thereafter abandoned her. During her illness and hospitalization, the respondent neither provided financial assistance nor cared for her. Left with no support, the applicant returned to her parental home at Raipur on 21.12.2019. The applicant was continuously subjected to domestic violence and cruelty by the respondent and his family in connection with unlawful demands for dowry at Kolkata, Raipur and even during her stay in Texas, USA. Consequently, she has been residing at her parental home at Raipur since 21.12.2019. On her complaint, a criminal case under Section 498-A read with Section 34 IPC was registered against the respondent and his family members. The applicant is suffering from serious medical ailments. Medical investigations conducted on 26.04.2024 revealed ailments including adenomyoma and other gynaecological complications, for which she has been undergoing expensive treatment. Despite repeated demands, the respondent and his family have neither returned her *stridhan* nor provided any financial assistance or maintenance, leaving her with insufficient means to meet her day-to-day and medical expenses.

4. It is submitted that, having no sufficient independent means to maintain herself, the applicant filed an application under Section 125 Cr.P.C. on 11.02.2020 before the Family Court, Raipur, claiming maintenance. The respondent contested the proceedings by denying the allegations and filing an affidavit regarding his income and assets. According to the applicant, the respondent deliberately concealed his actual income and financial status. The applicant, on the other hand, filed affidavits along with medical records and treatment expenses to demonstrate her

financial condition and serious health issues, including spinal ailments and cancer-related treatment requiring substantial expenditure.

5. Mr. Patel submits that the learned Family Court erroneously dismissed the application under Section 125 Cr.P.C. solely on the ground that the applicant is employed, without considering whether her income is sufficient to maintain herself in a manner commensurate with the respondent's standard of living. It is contended that the Court failed to appreciate the evidence regarding the applicant's medical condition, treatment expenses, and the cruelty suffered by her, which constitute sufficient cause for residing separately from the respondent. It is further submitted that the applicant earns approximately Rs.60,127/- per month, whereas the respondent is employed in the USA and earns substantially more, besides possessing considerable assets and investments. The learned Family Court failed to consider the vast disparity in the financial status of the parties and the settled principle that mere employment of the wife does not disentitle her from claiming maintenance if her income is insufficient to maintain the standard of living enjoyed by the husband. It is, therefore, prayed that the impugned order be set aside and the revision petition be allowed.
6. On the other hand, Mr. Hemant Kesharwani, learned counsel appearing for the respondent submits that the applicant has not come in clean hand before this Hon'ble Court. The applicant herself is an employed lady and is having sufficient means to meet her expenses. She was never subjected to any cruelty rather she had filed false cases of dowry and domestic violence against the respondent and his family members. The ground mentioned in the instant revision is never been submitted by the applicant before the learned Court below, the document submitted in the instant revision is required to be examined by the trial court, the authenticity

of the document required to be examined, the respondent had no opportunity to cross examine of applicant on aforesaid document therefore the document with not produce before the court below cannot consider for adjudication of instant revision. The applicant filed medical document before this Hon'ble Court which do not reflect the cancer diseases, the document reflected that no ailment of cancer found. The medical document dated 14.04.2026 reflected the history of the patient that pain of left breast last for 2 months noticed pre-menopausal status, no possibility family history for breast cancer. The perusal of the aforesaid document it is clear that only last 2 month pain of left breast notice by the applicant. The applicant failed to produced any treatment in respect of the cancer antigen, if cancer antigen test is high it does not suffer for cancer, the applicant failed to produce any evidence of breast cancer or any suspicious lesion seen, for the determination of the cancer test of hormonal profile is necessary but herein, the applicant not produced any hormonal profile test. After lodging of the case under Section 498-A of the IPC against the respondent and his family members, the applicant deliberately did not appear before the trial court for recording her evidence. The applicant has sufficient income to maintain herself her maintained herself, the applicant filed an application under Section 12 of Domestic Violence Act bearing No. MJC No. 27/2020 wherein the learned Court below has rejected the interim maintenance vide order dated 01.11.2023 on the ground that the applicant has suppress the her income, the applicant preferred appeal against the dismissal of interim maintenance, however her appeal bearing Criminal Appeal No. 243/2023 has been dismissed vide order dated 20.03.2024, the applicant preferred revision before this Hon'ble Court which has been rejected on dated 12.06.2025.

7. I have considered the rival submissions advanced by learned counsel for the parties and have perused the material available on record.
8. The scope of interference in a revision against an order passed under Section 125 of the Code of Criminal Procedure is limited. However, where the findings recorded by the Family Court are based on an incomplete consideration of the material or where subsequent developments having a bearing on the entitlement of the parties are brought to the notice of the Court, the revisional jurisdiction can be exercised to ensure that substantial justice is done. In the present case, the learned Family Court has recorded a categorical finding that the applicant had sufficient cause to reside separately from the respondent. The only ground on which the application under Section 125 Cr.P.C. has been rejected is that the applicant was found to be earning sufficiently to maintain herself. While arriving at the said conclusion, the Family Court has observed that the applicant failed to establish that she was suffering from any serious spinal ailment or that she was incurring substantial medical expenses. Before this Court, the applicant has placed reliance upon certain medical documents to contend that she is presently suffering from serious gynaecological ailments and other medical complications requiring continuous treatment and substantial expenditure. The respondent, on the other hand, has disputed the genuineness and evidentiary value of the said documents and has contended that the documents were never produced before the Family Court and, therefore, he had no opportunity to cross-examine the applicant or lead rebuttal evidence. It has further been contended that the medical documents do not establish that the applicant is suffering from cancer or any life-threatening disease. The respondent has also contended during the course of arguments that after the outbreak of the

Covid-19 pandemic, he lost his employment in the United States and is presently not earning as alleged by the applicant. Though there is no specific pleading, the said submission indicates that the financial position of the respondent is also a disputed question requiring adjudication on the basis of proper evidence. It has also been brought to the notice of this Court that the respondent has filed an application under Section 340 Cr.P.C. alleging suppression of material facts by the applicant regarding her actual income.

9. While determining a claim for maintenance, the Court is required to ascertain not merely whether the wife is employed, but whether she possesses sufficient independent means to maintain herself having regard to her reasonable needs, medical expenses, income, liabilities and the financial capacity of the husband. Likewise, the actual earning capacity and financial status of the husband are equally relevant considerations. Such issues are essentially questions of fact and ought to be decided on the basis of complete evidence.
10. In the facts of the present case, this Court is of the considered opinion that the controversy regarding the applicant's present medical condition and the extent of expenditure incurred by her on treatment, as also the actual income and financial capacity of both the parties, cannot appropriately be adjudicated in the present revisional proceedings on the basis of documents produced for the first time before this Court. Since these documents were admittedly not before the Family Court, the respondent has not had an opportunity to test their authenticity or correctness by way of cross-examination or by leading rebuttal evidence. Similarly, the respondent's plea regarding his present financial condition also requires appropriate pleadings and evidence.

11. Having regard to the aforesaid facts and in the interest of justice, this Court is of the view that the matter deserves to be remitted to the learned Family Court for a fresh adjudication on the limited issues relating to (i) the applicant's present medical condition and the effect thereof on her capacity to maintain herself, including the medical expenses incurred by her; (ii) the actual income, assets and financial capacity of the applicant; and (iii) the present income, employment status, assets and financial capacity of the respondent.
12. Accordingly, the impugned order dated 08.10.2025 passed by the learned First Additional Principal Judge, Family Court, Raipur in M.C.C. No.229/2020, insofar as it rejects the claim for maintenance, is set aside and the matter is remanded to the learned Family Court for fresh consideration on the aforesaid issues. The learned Family Court shall afford adequate opportunity to both parties to amend their pleadings, if so advised, and to adduce additional oral as well as documentary evidence with regard to their respective income, assets, liabilities, employment status and the applicant's medical condition and treatment expenses. The parties shall also be afforded full opportunity to cross-examine the witnesses produced by the opposite side. Consequently, the revision petition stands **allowed**.
13. It is clarified that this Court has not expressed any opinion on the merits of the rival claims regarding the applicant's entitlement to maintenance or the quantum thereof. All issues are left open to be decided independently by the learned Family Court on the basis of the evidence that may be adduced by the parties and in accordance with law. Since the proceedings arise out of an application under Section 125 Cr.P.C., which is intended to provide speedy relief, the learned Family Court shall make an endeavour to decide the matter expeditiously, preferably within

a period of two months from the date of appearance of the parties before it, without granting unnecessary adjournments. The parties are directed to appear before the learned First Additional Principal Judge, Family Court, Raipur on 17.07.2026 or on such date as may be fixed by the learned Family Court.

- 14.** A copy of this order be sent to the concerned Family Court for necessary information and compliance, forthwith.

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE