

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 3148/2012

Smt Santosh Devi W/o Babulal D/o Buddhalal Koli, Resident of At present Ward No. 20, Bandikui, Tehsil- Bawa, District Dausa.

-----Petitioner

Versus

Babulal S/o Chittarmal, R/o Near Bus Stand, Tahla, Tehsil- Rajgarh, District -Alwar.

-----Respondent

For Petitioner(s)	:	Mr. Umesh Vyas
For Respondent(s)	:	None

JUSTICE ANOOP KUMAR DHAND

Order

24/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 12.07.2012 passed by the Court of Additional Sessions Judge Bandikui, District Dausa in Criminal Revision Petition No. 40/2011 by which the order dated 25.07.2011 passed by the Court of the Additional Chief Judicial Magistrate, Bandikui, Dausa has been quashed and set aside.
2. By passing the order dated 25.07.2011, the learned Additional Chief Judicial Magistrate, Bandikui allowed the application submitted by the petitioner under Section 125 Cr.P.C. and directed the respondent to pay maintenance of Rs. 3000/- per month to the petitioner.

3. Feeling aggrieved and dissatisfied by the aforesaid order, the respondent submitted a revision petition before the Revisional Court and the same has been allowed vide order dated 12.07.2012 and the order passed in favour of the petitioner for getting maintenance from the respondent has been quashed.

4. Learned counsel for the petitioner submits that the marriage of the petitioner was solemnized with the respondent on 20.11.2004 but on account of matrimonial dispute between the parties, the petitioner started residing separately. Counsel submits that since the petitioner was unable to maintain herself, hence under those circumstances, an application under Section 125 Cr.P.C. was submitted by her and the same was allowed after hearing both the sides by the learned Magistrate vide order dated 25.07.2011 and the respondent was directed to pay monthly maintenance of Rs. 3000/- to the petitioner.

5. Counsel submits that by giving the reference of the petitioner's statement that she is not willing to reside with the respondent along with her in-laws in the matrimonial house and only on this pretext, the order of maintenance has been quashed by holding that the petitioner has deserted the respondent. Counsel submits that the statement of the petitioner has been misread by the learned Revisional Court and accordingly, the order impugned has been passed which is not sustainable in the eyes of law and the same is liable to be quashed and set aside.

6. None present on behalf of the respondent inspite of service.

7. Heard and considered the submissions made at Bar and perused the material available on record.

8. This fact is not in dispute that the marriage of the petitioner was solemnized with the respondent. This fact is also not in dispute that on account of some matrimonial dispute between the parties both started residing separately. It appears that when the statements of the petitioner were recorded before the Court of learned Magistrate wherein she has stated that her husband i.e. the respondent has thrown her out of the matrimonial home, hence, she is residing at her maternal home since last more than three years. She submitted that she would not reside with the respondent even if the respondent is inclined to keep her with him but she has admitted that in case, the respondent starts residing at Bandikui in a separate house, she is ready to reside with him. The aforesaid statements of the petitioner has been misread by the learned Revisional Court by upholding that the petitioner has deserted the respondent, hence, she is not entitled to get maintenance.

9. In the considered opinion of this Court that in case, the petitioner-wife wants to reside in a separate house, thus such an act of the petitioner cannot be allowed to be construed as an expression of desertion, hence the Revisional Court has committed an error in passing the impugned order which is not sustainable in the eyes of law and the same is liable to be and is hereby quashed and set aside.

10. The matter is remitted to the Revisional Court for deciding the revision petition on its merit, after providing appropriate opportunity of hearing to the parties.

11. The parties are directed to appear before the Revisional Court on 11.05.2026.

12. Since none appeared on behalf of the respondent and he is not aware about passing of this order, let a copy of this order be sent to his residential address.

13. The Revisional Court is expected to issue fresh notice to the respondent, in case, he fails to appear before the Revisional Court on the said date and it is also expected from the Revisional Court to pass appropriate orders after hearing both the sides.

14. Accordingly, the instant criminal misc. petition stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J