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CRR-4517-2022

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

CRIMINAL REVISION No. 4517 of 2022

██████████ AND OTHERS

*Versus*

██████████

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Appearance:

Shri Anirudh Saxna - Advocate for the appellant.

Shri Krishnapal Singh Khichi - Advocate for the respondent.

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(Heard on: 02.04.2026)

(Delivered on: 20.05.2026)

ORDER

This criminal revision under section 397 read with section 401 of the Cr.P.C., 1973 is preferred being aggrieved by judgment dated 05.09.2022 in Criminal Appeal No.58/2018 by the First Additional Sessions Judge, Rajgarh (Biaora) (MP) arising out of order dated 01.11.2018 in Misc. Criminal Case No.29/2014 by Nyayadhikari, Gram Nyayalaya, Biaora Rajgarh (MP) whereby claim of maintenance of the revision petitioners under section 125 of the Cr.P.C., 1973 has been denied on the ground that revision petitioner no.1 is not legally wedded wife of the respondent and petitioner no.2 is not proved to be the son of the respondent.

2. Facts of the case in brief are that:- revision petitioners filed an application under section 125 of the Cr.P.C., 1973 before the Nyayadhikari, Gram Nyayalaya, Biaora Rajgarh (MP) on 24.07.2014 on the ground that



revision petitioner no.1 was married to respondent 14-15 years ago as per the hindu rituals at village Dhanyakhedi and revision petitioner no.2 was born out of the wedlock. revision petitioner no.2 is residing with mother i.e. revision petitioner no.1 in the year 2006 to 2017. revision petitioners were ousted from the matrimonial home and no provision for maintenance was made. revision petitioners are not able to maintain themselves and they requires Rs.5,000/- per month to both the revision petitioner in total Rs.10,000/- as maintenance. Respondent is a government servant and earns Rs.40,000/- per month. He also have income of Rs.5 lac to Rs.6 lac per annum from 15 Bigga of irrigated agricultural land.

3. The application was replied and the factum of marriage was denied. It was stated that the respondent was married to Krishnabai and two children namely Rajnandani and Shubham were born from the said wedlock. Due to disputes with Krishnabai, she moved to her maternal home and did not return to the matrimonial home. The respondent was working as a teacher and had engaged revision petitioner No. 1 for domestic help at a remuneration of Rs.1,000 per month. It was further alleged that revision petitioner No.1 committed theft in his house and left the house along with revision petitioner No.2. Revision petitioners have filed this applications only to blackmail the respondent as he is in government job. Respondent is not liable to maintain the revision petitioners.

4. Gram Nyayalaya, Biaora examined revision petitioner no.1 as PW-1, her maternal uncle as PW-2 and paternal uncle as PW-3 and maternal uncle as PW-4 and her brother as PW-5 and adduced the documents Exhibit-



P/1 and P/2. Respondent examined as DW-1 and her brother-in-law as DW-2 and Phool Singh as DW-3 and Kailash as PW-4 and adduced the documents Exhibit-D/1 to D/8.

5. Appreciating the evidence Nyayadhikari, Gram Nyayalaya, Biaora Rajgarh (MP) recorded the finding that he has not proved that revision petitioner no.2 is not proved as son of the respondent and dismissed the application. The appeal preferred by the revision petitioners was also dismissed by the 1st Additional Sessions Judge, Biaora Rajgarh affirming the finding recorded by the trial court and also rejected the application of additional evidence.

6. Challenging both the orders this revision petition has been preferred.

7. During the pendency of the revision petition, the revision petitioners preferred I.A. No. 3769/2024 seeking permission to conduct a DNA fingerprinting test to establish the paternity of revision petitioner No.2 with the respondent. The said application was opposed by filing Document No. 2759/2024. Vide order dated 14.03.2024 the application was rejected on the ground that the respondent was not willing to undergo the DNA fingerprinting test and therefore could not be compelled to do so. However, the respondent's refusal to undergo the DNA fingerprinting test shall be considered at the time of final adjudication of the revision petition, in accordance with law.

8. Heard.

9. Counsel for the respondent opposed this criminal revision.



10. Perused the record.

11. Before proceeding further the law laid down in the case of **Dwarika Prasad Satpathy vs Bidyut Prava Dixit And Another (1999) 7 SCC 675** has been reproduced as below:-

*"The standard of proof of marriage in such proceeding is not as strict as is required in a trial of offence under section 494 of the I.P.C. If the claimant in proceedings under Section 125 of the Code succeeds in showing that she and the respondent have lived together as husband and wife, the Court can presume that they are legally wedded spouses, and in such a situation, the party who denies the marital status can rebut the presumption."*

12. It is not a case that revision petitioner no.1 is a lady altogether not familiar to the respondent and is making allegations to blackmail the respondent who is a government servant only for the purpose of extracting money. As per para-2 of the testimony of the respondent [REDACTED] who has been examined as DW-1 revision petitioner no.1 is a relative of respondent. The relationship was explained by stating that Tulsibai, the sister-in-law (bhabhi) of the respondent, is the maternal aunt (mausi) of Revision Petitioner No. 1. In paragraph 5 of his testimony, the respondent at first instance denied to recognize the revision petitioner no.2 however, he later admitted that revision petitioner No.2 is the son of revision petitioner No.1. Further, Ramprasad (PW-2), Girdharilal (PW-3), Babulal Sharma (PW-4), and Veeram @ Vikram (PW-5) have stated that revision petitioner No.1 was married to the respondent at Village Daniyakhedi, District Rajgarh as per hindu rituals and revision petitioner No. 2 was born out of the wedlock. They



further stated that the respondent ousted the revision petitioners compelling them to reside at the parental home in Village Daniyakhedi.

13. Now we are reproducing the para-5 and 6 of the reply of the respondent which are as below:-

"5. यह कि आवेदन-पत्र का चरण 5 असत्य होने से अस्वीकार है। आवेदिका का यह कथन कि 7-8 साल पहले भगा दिया, फिर रख लिया व 2 वर्ष पूर्व घर से यह कहकर भगा दिया कि एक लाख रुपये लेकर आवेगी तभी रखेगा असत्य होने से अस्वीकार है। अपितु वास्तविकता यह है कि अनावेदक का अपनी पत्नि कृष्णाबाई से विवाद हो जाने से वह कुछ समय के लिये मायके चली गई और लेने जाने पर भी नहीं आई तो अनावेदक जो कि शिक्षक हैं उसे गृहकार्य रोटी, पानी, बर्तन, झाड़ू, पोछा कार्य के लिये आवेदिका क्रं. 1 को 1000/- रुपये मासिक पारिश्रमिक पर उक्त कार्य के लिये रखा था।

6. यह कि आवेदन-पत्र का चरण 6 असत्य होने से अस्वीकार है। अपितु वास्तविकता यह है कि अनावेदक की पत्नि करीब डेढ़ वर्ष तक मायके में रही उस समय आवेदिका क्रं. 1 को गृह कार्य झाड़ू, बर्तन, रोटी पानी के काम के लिये 1000/- रुपये मासिक पारिश्रमिक पर अनावेदक ने रखा था। अनावेदक के घर से 500 ग्राम चांदी का कमरपेटा, 300 ग्राम चांदी का कड़ी गायब हो गयी, किसी ने चुरा ली और तभी से आवेदिका क्रं. 1 अपने पुत्र के साथ चली गई। अनावेदक ने रिपोर्ट थाने पर की तो पुलिस ने कहा कि तलाश कर लो तुम्हारी पत्नि या कोई रिश्तेदार बगैरहा ले गये होंगे यदि एफ.आई.आर. दर्ज कर ली तो जिसके पास से जप्त होगी उस पर अपराध कायम कर देंगे। इस पर अनावेदक ने तालश की, परंतु उक्त जेवर नहीं मिले। तो अनावेदक हार मानकर रह गया।"

14. A woman who works at the house of the respondent in the absence of wife for a long period of one and half year and who is the relative of the respondent is not stated with whom the revision petitioner no.1 was married and who is the father of the revision petitioner no.2. On the contrary the prayer of DNA fingerprinting test is opposed by the respondent for



establishing paternity of the revision petitioner no.2 with respondent. Accordingly, this Court considers it a fit case to invoke an adverse inference against the respondent and such adverse inference is drawn. Merely because respondent is claiming that he was legally married to another woman [REDACTED] with whom two children have been born cannot be a ground to deny the maintenance to revision petitioner no.1 and 2 as for granting maintenance as it is not required that the marriage in such proceeding be proved strictly as in a trial of offence under section 494 of the I.P.C.

15. Accordingly, the criminal revision is allowed, and the orders passed by both the courts below are set aside. The revision petitioners are entitled to maintenance of Rs.5,000 each i.e. a total of Rs.10,000 per month, payable from the date of the application, i.e., 27.04.2014. The maintenance awarded to revision petitioner No.1 shall continue until she remarries, and the maintenance awarded to revision petitioner No.2 shall continue until attaining majority.

(GAJENDRA SINGH)  
V. JUDGE

ajit