



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

ON THE 24th OF SEPTEMBER, 2026

CRIMINAL REVISION No. 723 of 2020

MAHESH AHIRWAR
Versus
SMT. URMILA AHIRWAR

Appearance:

Shri Sanjay Kumar Saini - Advocate for the petitioner.

Shri Rajesh Kumar Namdeo - Advocate for the respondent.

ORDER

This criminal revision has been preferred by the petitioner/husband challenging the order dated 03.01.2020 passed by Principal Judge, Family Court, Mandla in MJCR No.78/2018, whereby the Family Court has allowed an application under Section 125 of the Cr.P.C. and awarded an amount of Rs.3,000/- to the respondent/wife, towards monthly maintenance.

2. Learned counsel for the petitioner/husband submits that there is no dispute about solemnization of marriage between the petitioner and respondent on 07.05.2017 and as per the application under Section 125 of the Cr.P.C. the respondent/wife is living separately since February, 2018. He submits that from the application under Section 125 of the Cr.P.C. itself it is clear that the respondent/wife is resident of village Dongargaon, Police



Station Mohgaon, Tehsil Ghughari, District Mandla, whereas, the petitioner/husband is resident of village Jamgaon, Tehsil Nainpur, District Mandla. He submits that in view of the residence of the petitioner and the respondent, the application filed before the Family Court, Mandla was not maintainable because the Family Court had no jurisdiction over the matter, since both the parties are not residents of Cantonment area/Municipal area or within the boundaries of concerned Tehsil i.e. Ghughari or Nainpur of District Mandla. He also submits that in the year 2008 “The Gram Nyayalayas Act” was enacted, which came into force on 02.10.2009, and the application under Section 125 of the Cr.P.C. was filed on 24.11.2018, hence it is clear that only the Nyayadhikari of the Gram Nyayalaya was having jurisdiction over the matter and the Family Court was not having jurisdiction to entertain/decide the application under Section 125 of the Cr.P.C., therefore, the order passed by the Family Court being without jurisdiction is nullity and liable to be set aside. With these submissions, he prays for allowing the criminal revision and for setting aside the impugned order. In support of his submissions, learned counsel for the petitioner/husband placed reliance on the decisions in the case of Vijay Kumar Prasad vs. State of Bihar and others, **AIR 2004 SC 2123**, K. Mohan vs. Balakanta Lakshmi, **1983 Cr.LJ 1316**, Md Abdul Malik vs. Nashim Akhtar, **(2010) 1 DMC 439** and Prasad Choudhury vs. Sasmita Sahoo, **CRLMC No. 1586 of 2020 dtd. 03.01.2022 (Orissa High Court)**.



3. Learned counsel appearing for the respondent/wife supports the impugned order and prays for dismissal of the instant criminal revision.

4. Heard learned counsel for the parties and perused the record.

5. From the record, it is clear that upon arguing the aforesaid question, this Court vide order dated 24.02.2022 called for the report from the concerned District Judge with a view to ascertain as to whether the case is under the jurisdiction of Family Court, Mandla or not, thereupon a report was sent by the Principal Judge, Family Court, Mandla dated 28.02.2022, whereby it has been informed that as per Section 126 of the Cr.P.C., since both the parties are not residents of Tehsil Mandla, District Mandla or within the area of Nagar Palika Parishad, therefore, their case does not come within the jurisdiction of Family Court, Mandla.

6. Taking this Court to the aforesaid report as well as the interim order passed by this Court on 24.02.2022 and 24.03.2022, learned counsel for the petitioner/husband submits that since the Family Court had no jurisdiction over the matter, therefore, the impugned order being nullity is unsustainable in law.

7. From the aforesaid perspective, the matter is seen by this Court, especially, the reply submitted by the respondent/husband, perusal of which shows that the respondent/husband has nowhere raised any objection about the jurisdiction of the Family Court on the ground of residence of the parties. Neither during the course of evidence nor before passing of the final order dtd. 03.01.2020 was any such objection raised.



8. In the case of Ashok Kumar Tiwari vs. Malti Bai and another, **1990 JLJ 134 = 1990 MPLJ 67**, a coordinate Bench of this Court has held as under:-

“5. The learned counsel for the applicant first submitted that the Court at Banda had no jurisdiction to entertain the application. The question whether the non-applicants ‘reside’ within the jurisdiction of Court at Banda or not cannot be entertained for the first time in this revision, since no foundation was laid in the trial Court. The objection as to the jurisdiction cannot be allowed to be raised for the first time before this Court. There are catena of decisions like Ram Saran Parshotam Dass v. Smt. Soman Wati, 1964 Cr. LJ. (P & H) 483, Ambalal Narandas Patel v. Dhiben Dahyabhai Patel, [AIR 1963 Guj. 91](#), taking the view that even if the proceedings were taken in wrong Court, when the question of jurisdiction was raised for the first time, the High Court will not disturb the order of the trial Court unless failure of justice has been occasioned by such order. The defect, if any, in the local or territorial jurisdiction of the Magistrate is curable under section 531 of the old Code analogous to section 462 of the present Code. See:- Mohd. Maroof v. State through Collector and Anr. , 1969 Cr.LJ. (All) 533 and Abdul Ghaffar v. Bibi Hafiza Khatoon, [AIR 1969 Pat. 307](#). The objection is therefore overruled.”

9. Similarly in the case of Praveen Bajpai vs. Ku. Ayushi Bajpai and others, **ILR 2019 MP 2594**, another coordinate Bench of this Court has held as under:-

“11. In this case, the application under Section 127 of CrPC was filed before the family court on 26.10.2015. In the application it was stated that the case No. 75/2010 was filed on 13.07.2019 and the court granted Rs. 500/- 500/- as maintenance to both the appellants but that is insufficient amount of maintenance which is required to be increased. The respondent/applicant appeared and filed his reply on 21.07.2016. He did not raise any objection in his reply regarding territorial jurisdiction of the family court. Both the parties produced their evidences and the matter was finally heard and decided upon the basis of evidence. From the beginning of the case, till the final decision, no any objection was raised by the applicant regarding the territorial jurisdiction, therefore, the aforesaid objection cannot be considered at the stage of this revision. Family court and the Gram Nayalaya both are situated in the same district. Both are having the power to decide the application filed under Sections 125 and 127 of CrPC. Only bar is about the territorial jurisdiction. Looking to the aforesaid conduct of the applicant, the objection regarding territorial jurisdiction cannot be considered at this stage because he participated in the entire proceedings without raising any objection regarding the territorial jurisdiction. Section 125 is a beneficiary legislation therefore, any party cannot deprive of benefit only upon some technical ground. Therefore, the objection regarding the territorial jurisdiction is not tenable at this stage.”

10. In the light of aforesaid two concurrent judgments of this Court on the issue directly involved in the instant criminal revision and further in view of the fact that no objection with regard to territorial jurisdiction was raised



on behalf of the petitioner/husband before the Family Court, this Court does not find any illegality in the impugned order awarding an amount of Rs.3,000/- to the respondent/wife.

11. Further, in view of the aforesaid judgments in the case of Ashok Kumar Tiwari (**supra**) and Praveen Bajpai (**supra**), the decisions relied upon by learned counsel for the petitioner/husband in the case of Vijay Kumar Prasad (**supra**), K. Mohan (**supra**), Md Abdul Malik (**supra**) and Prasad Choudhury (**supra**) do not provide any help to the petitioner/husband.

12. Even otherwise, upon due consideration of the income/financial status of the petitioner/husband, this Court does not find any illegality in the impugned order awarding the aforesaid amount of Rs.3,000/- to the respondent/wife.

13. Resultantly, instant **criminal revision fails and is hereby dismissed.**

14. Pending application(s), if any, shall stand disposed of.

(DWARKA DHISH BANSAL)
JUDGE