

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>CRLR No. 736 of 2022 <u>Hon'ble Manoj Kumar Tiwari, J.</u></p> <p>Mr. Deepak Sharma, Advocate for the revisionist.</p> <p>Ms. Lata Negi, Brief Holder for the State of Uttarakhand.</p> <p>Heard learned counsel for the parties.</p> <p>This criminal revision is directed against the order dated 07.09.2022 passed by Judge, Family Court, Haridwar. By the said order, application filed by revisionist, for impleading other children of respondent no. 2 (Smt. Sushila Devi) in maintenance proceedings initiated by her under Section 125 Cr.P.C., was rejected.</p> <p>It is not in dispute that respondent no. 2 is legally wedded wife of Mr. Veer Singh Saini. Four children were born out of the said wedlock, eldest one being Manish Saini (<i>revisionist herein</i>). Respondent no. 2 moved application under Section 125 Cr.P.C., claiming maintenance at the rate of ₹5,000/- per month from her husband and ₹20,000/- per month from the revisionist. In the said application, revisionist prayed for impleading his other siblings as respondent to the maintenance application on the ground that they are well placed in life, therefore, they are also equally responsible for providing maintenance to their mother.</p> <p>The prayer made by the revisionist was rejected by learned Judge, Family Court. The order, whereby application of revisionist seeking impleadment of his siblings was rejected, is challenged in this criminal revision.</p>

Heard learned counsel for the revisionist and perused the record.

Learned Judge, Family Court has given valid reason for rejecting revisionist's impleadment application by holding that it is for the person claiming maintenance to decide from whom he/she wants maintenance and further that Court cannot compel respondent no. 2 to implead her other children as respondent to the maintenance application. Learned Family Court has further held that while ascertaining the amount payable as maintenance, Court can take into account the amount, if any, received by respondent no. 2 from her other children, however, she cannot be compelled to implead all her children as party to the maintenance proceedings.

This Court concurs with the reasoning given by learned court below. Chapter IX of Code of Criminal Procedure contains provision for maintenance of wife, children and parents. Section 125 Cr.P.C. provides that a Magistrate of the First Class, may by order, direct a person to make a monthly allowance for the maintenance of his wife, child, father or mother, as the case may be, if he finds that despite having sufficient means, he is neglecting or refusing to maintain them.

Section 125(1) of Code of Criminal Procedure is reproduced below: -

"125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or

mental abnormality or injury unable to maintain himself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding five hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such children, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

*Explanation. - For the purposes of this Chapter, -
(a) " minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875); is deemed not to have attained his majority;*

(b) " wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried."

Section 125(1) of Cr.P.C. opens with the expression "if any person". This reflects the legislative intent that any one of the several persons may be chosen for claiming maintenance and it is not obligatory on the part of the claimant seeking maintenance to

name all the persons having sufficient means to be proceeded against. In other words, it is for the claimant to decide whether he/she wants maintenance from any one or all the persons, who are liable to maintain him/her.

In such view of the matter, the application made by revisionist was misconceived and the same was rightly rejected by learned Judge, Family Court.

Even otherwise also, impleadment is a concept of civil law, which is engrafted in Code of Civil Procedure and there is no provision in Cr.P.C., which enables a respondent to a proceedings to seek impleadment of some other person in the said proceeding.

Accordingly, the revision is dismissed.

(Manoj Kumar Tiwari, J.)

06.12.2022

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