

**(2019) 02 CHH CK 0413**

**Chhattisgarh High Court**

**Case No:** Criminal Miscellaneous Petition (CRMP) No. 1689 Of 2018

Radha Bai And Ors

APPELLANT

Vs

Lalit Kumar

RESPONDENT

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**Date of Decision:** Feb. 22, 2019

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 125(3)

**Hon'ble Judges:** Goutam Bhaduri, J

**Bench:** Single Bench

**Advocate:** Sunil Sahu

**Final Decision:** Allowed

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**Judgement**

Goutam Bhaduri, J

1. Heard.

2. The present petition is against the order dated 11.06.2018 whereby an application filed by the petitioners under Section 125 (3) Cr.P.C. for recovery

of the awarded sum of maintenance has been refused. The ground of refusal is that the name of the husband of the petitioner namely Smt. Radha Bai

has been shown as Chunmani Yadav R/o Raghunathpur, Jashpur (C.G.) whereas earlier her husband name was shown as Lalit Kumar S/o

Chandrashekhar.

3. Learned counsel for the petitioners submits that inadvertently in the Adhar Card instead of husband's name, the name of the father was recorded,

which was duly corrected subsequently and the name of the husband of the petitioner was shown as Lalit Kumar, therefore, on the fault of others, the

petitioner cannot be subjected to denial of her right. He further submits that in any case without notice the application for recovery was dismissed,

which could not have been done by the Court below as it was the duty of the respondent if aggrieved to project such cause.

4. Perused the order dated 11.06.2018. It shows that the application for recovery of the arrears of the maintenance has been dismissed at the

threshold on the basis of the entry in the Adhar Card, wherein the petitioner Smt. Radha Bai was shown to be the wife of Chunmani Yadav. The copy

of the said Adhar Card showing the name of the husband of the petitioner as Chunmani Yadav is on record along with that one more copy is on

record which also shows that the name of the husband of the petitioner was subsequently appears to have been corrected and Radha Bai has been

shown to be the wife of Lalit Kumar. If in the Adhar Card name has wrongly been mentioned and the identity of the person is changed, it cannot be

the sacrosanct and conclusive proof. Prima facie, the document Annexure P-8 subsequent Adhar Card is on record shows that the petitioner Radha

Bai is the wife of Lalit Kumar, therefore, the said fact further could have been clarified when the notices could have been issued to the respondent

Lalit Kumar. Under the circumstances, the order dated 11.06.2018 is set aside and the case is remanded back to the Court below for adjudication

afresh with respect to the application filed under Section 125 (3) Cr.P.C. The petitioner shall appear before the Court below on 2 nd of April, 2019.

5. Accordingly, the petition stands allowed.