

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 748 of 2016**

- Kalesh Kumar S/o Late Nityanand Dubey Aged About 47 Years R/o Village - Dhanpur (Changori), Police Station & Tahsil - Akaltara, Civil & Revenue District - Janjgir - Champa Chhattisgarh

**---- Applicant****Versus**

1. Smt. Sarojani Dubey W/o Kalesh Kumar Dubey Aged About 38 Years R/o Village - Dhanpur (Changori), Police Station & Tahsil - Akaltara, Civil & Revenue District - Janjgir - Champa Chhattisgarh Present Address - Village - Amora, Police Station & Tahsil - Nawagarh, District - Janjgir - Champa Chhattisgarh
2. Ashutosh Dubey S/o Kalesh Kumar Dubey Aged About 11 Years Minor Through Natural Guardian Mother Smt. Sarojani Dubey W/o Kalesh Kumar Dubey, R/o Village - Dhanpur (Changori), Police Station & Tahsil - Akaltara, Civil & Revenue District - Janjgir - Champa Chhattisgarh Present Address - Village - Amora, Police Station & Tahsil - Nawagarh, District - Janjgir - Champa Chhattisgarh

**---- Non-applicants**


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For Applicant                      Shri Dharmesh Srivastava, Advocate.

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**SB: Hon'ble Shri Justice P.Sam Koshy****Order On Board****12/08/2016**

1. By way of present Criminal Revision the Applicant intends to challenge the order dated 30.06.2016 whereby the Judge Family Court, Janjgir Champa in a proceeding under Section 125 of Cr.P.C. in Misc. Criminal Case No. 201/2015 has allowed the application for grant of maintenance and ordered for payment of Rs. 2000/- p.m. to be paid to the Non-applicant No.1 and Rs. 1500/-p.m. to the child, Non-applicant No.2.
2. Learned Counsel for the Applicant submits that he assails the order of

the Court below on two grounds: firstly the Non-applicant No.1 has left the matrimonial home on her own and that she is living an adulterous life. Secondly, amount of maintenance awarded by the Court below is on higher side and is beyond the paying capacity of the present Applicant.

3. He further submits that there were specific instances of Non-applicant No.1 living in adultery and that was the reason she had left the matrimonial house and was staying separately at her parental home.

4. However, perusal of the record would show that after the relationship between the Applicant and Non-applicant No.1 got strained, there was a mediation between the parties and the parties had entered in to a settlement and resolved the dispute and started staying together. It is admitted that subsequently the present Applicant used to harsh and torture his wife and would not permit her to consummate between them. That for these reasons she was forced to leave her matrimonial house and take shelter at her parental home. This aspect has not been controverted by the husband by way of any evidence before the Court below nor has the present Applicant cross examined the Non-applicant wife in this aspect. Thus from the pleading which have come on record there seems justified and plausible reasons for the wife to leave the matrimonial home and stay separately from the Applicant – Husband.

5. So far as the quantum of maintenance amount awarded by the Court below is concerned, taking into consideration the maintenance amount to Non-applicant No.1, wife i.e. Rs. 2000/- pm which if divided equally into 30 days of a month, would come to around Rs. 65/- per day which by no stretch of imagination can be said to be exorbitant or on the higher side. Likewise, amount of Rs. 1500/-pm awarded to Non-applicant No.2 the school going son

of the Applicant and Non-applicant No.1 is also not on the higher side, it comes to only Rs. 50/- per day.

6. Accordingly, the Criminal Revision being devoid of merit, the same is dismissed.

**Sd/-  
(P. Sam Koshy)  
JUDGE**