

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 70 of 2016

- Smt. Rekha Rathour W/o Shiwprasad Rathour Aged About 28 Years
R/o Korba, At Present Resided At Vill. Tendubhatha, P.S. & Tahsil
Janjgir, District Janjgir Champa, Chhattisgarh.

---- Applicant

Versus

- Shiwprasad Rathour S/o Shree Ram Rathour Aged About 37 Years
R/o Korba, Power House Road, Near Purana Masjid, P.S. City
Kotwali, District Korba, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Vikash Pandey, Advocate.
For Respondent	:	Mr. Mirza Kaiser Baeg, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/10/2016

1. The present Revision Petition has been filed assailing the order dated 21.02.2015 passed by the Family Court, Janjgir in M.Cr.C. No. 241/2014.
2. Vide the said impugned order the Court below have in a proceeding under Section 125 Cr.P.C. preferred by the Applicant claiming maintenance from the respondent has been rejected.
3. Learned Counsel for the Applicant assailing the impugned order submits that the Court below has not properly appreciated the fact that sufficient ground has been shown by the present Applicant by leading proper and cogent evidence before the Court below to establish her claim for maintenance from respondent. He further submits that the Court below should have appreciated the fact that

the provision under Section 125 Cr.P.C. has to be dealt with liberally and that when an application has been moved by the wife seeking maintenance the same should have been considered by the Court below and should have granted a reasonable amount to the Applicant for her maintenance.

4. Learned Counsel for the Applicant submits that there have been specific allegation made by the Applicant against the accused respondent in respect of the torture which the Respondent husband made on the Petitioner on the ground of non-providing of sufficient dowry at the time of marriage, the same has not been considered by the Court below while rejecting the Application under Section 125 Cr.P.C. Therefore, the impugned order deserves to be interfered with.
5. Learned Counsel for the Respondent however opposing the petition submits that a bare perusal of the finding given by the Court below itself would reveal the nature of the ill-treatment and conduct of the Applicant with which she has lived with the Respondent when they were staying together shows that it was the Applicant who had without any sufficient reasons left the matrimonial home and also behaved in a manner which is not acceptable for a conducive family life.
6. Counsel for the Respondent also drew attention of this Court in respect of the finding which has come before the Court below of the assault which has been made upon on the Respondent at the instance of the Applicant and her family members and for which the police complaint was also lodged in the concerned Police station. He further drew attention of the Court towards the evidence which

has come on record which is not rebutted by the Applicant wife of sending her entire jewelery to her parental home without knowledge and consent of the Respondent and when he had objected the Applicant called upon her family members and got him assaulted.

7. Learned Counsel for the Respondent submitted the finding of the Court below does not warrant any interference as there is no sufficient and justified reason on part of the Applicant to leave her matrimonial home.
8. Having considered the rival contention put forth on either side and on perusal of the record what clearly reflects is the fact that the attitude of the Applicant towards his husband respondent was not at all good nor she ever maintained conducive atmosphere in the home during the period she had stayed with the Respondent. Further it is also proved and established before the Court that the Applicant had also in between got the Respondent assaulted by her family members. All these are sufficient indication for the Court below to rightly reach to the conclusion in rejecting the application seeking grant of maintenance. Accordingly, this Court is of the opinion that there is no illegality or infirmity on part of the Court below in reaching to the conclusion of rejecting the application under Section 125 Cr.P.C.
9. Accordingly, the present Petition being devoid of merits deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge