

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 730 OF 2015

Rakesh Kumar Banjare, aged about 34 years, S/o Shri Bhedilal, by caste Satnami, R/o Village Singhara, Tahsil and Thana Malkharoda, District Janjgir-Champa (C.G.)

... Applicant

Versus

1. Smt. Uma Devi Banjare, aged about 30 years, W/o Rakesh Kumar Banjare,

2. Om Banjare, aged about 2 and half years, S/o Rakesh Kumar Banjare, being minor through Mother Uma Devi Banjare, aged about 30 years, W/o Rakesh Kumar Banjare,

Both R/o Village Nagardih, Post Kaith, Thana and Tahsil Hasod, Distt. Janjgir-Champa (C.G.)

... Non-applicants

For Applicant	:	Mr. Waqar Naiyyer, Advocate, under instructions of Mr. Parag Kotecha, Advocate.
For Respondents	:	Mr. Atanu Ghosh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/06/2016

1. Challenge through the present revision petition is to the order dated 1.7.2015 passed by the Learned Family Court, Janjgir in M.Cr.C. No. 141 of 2014.

2. Vide impugned order dated 1.7.2015, the Family Court has passed an award for grant of maintenance to Non-applicant No.1 to the tune of Rs.1500/- and to Non-applicant No.2 an amount of Rs.1000/-, thus totaling the amount of Rs.2500/- per month towards maintenance.

3. Counsel for the Applicant assailing the impugned order submits that the Family Court has committed an error in law in not appreciating the evidence which has been adduced on behalf of the present Applicant who was Non-applicant before the Family Court.

4. Counsel for the Applicant submits that there is ample evidence on record by which it clearly establishes that Non-applicant No.1 has left her matrimonial home without any justified reason and has left the house voluntarily without any ill-treatment or cruelty met by the present Applicant. He further submits that the present Applicant had adduced sufficient evidence to also show that efforts were also made by him for bringing the Non-applicants back to his home for staying together which also the Non-applicant No.1 had refused and for this reason also the grant of maintenance to the Non-applicants is bad.

5. It was next submitted by the Counsel for the Applicant that the Court below has not taken into consideration the fact that the present Applicant does not have any sufficient means and with the limited income that he has, the maintenance of Rs.2500/- per month awarded by the Court below is exorbitant and deserves to be reduced taking into consideration the nature of employment of the present Applicant.

6. Counsel for the Non-applicants however opposes the revision petition and submits that a plain reading of the impugned order itself would show that the Court below has in fact properly considered all the evidence which have come before it and also taken note of the contentions and submissions of the present Applicant and disbelieving the contentions of the present Applicant the impugned order has been passed and the same being a speaking order does not warrant any interference, and thus prayed for rejection of the revision petition.

7. Having considered the rival contentions and on perusal of the record what is apparent is the fact that there is an evidence of Non-applicant Witness No.2, Rameshwar, who in his cross-examination has categorically admitted the fact that the Non-applicant No.1 was subjected to cruelty and ill-treatment by the present Applicant doubting her character and he used

to also assault her which led to her leaving the matrimonial home and going to her parental home.

8. It is also reflected from the record that the present Applicant also in between had preferred an application under Section 9 of the Hindu Marriage Act, 1955 before the appropriate Court and the same also has been dismissed on merits by the Court below which also gives sufficient indication that there was sufficient cause for the Non-applicant No.1 to leave her matrimonial home and stay separately.

9. These two facts itself give ample support to the findings arrived at by the Court below that there were justified reasons for the Non-applicant No.1 for leaving her matrimonial home and staying at her parental home.

10. So far as the argument of amount of Rs.2500/- as maintenance being on the higher side, it is found that the present Applicant has not been able to produce his salary slips and other documents so far as his earning is concerned. He also does not dispute the fact that he is employed with the Public Works Department of the State Government. Though he alleges that he is only a daily wage employee but he has not supported his contention by any cogent documentary proof in this regard and therefore an inference has been drawn that he is in fact an employee of the Public Works Department and must be drawing a salary minimum of around Rs.10,000/- to Rs.12,000/- and taking that into consideration the amount of Rs.2500/- with a break up of Rs.1500/- to Non-applicant No.1 and Rs.1000/- to Non-applicant No.2 does not seem to this Court to be exorbitant or on the higher side particularly keeping in mind the present days cost of living.

11. In the opinion of this Court, there is no merit in the present Criminal Revision and the same is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge