

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 796 of 2015**

- Sanjay Kumar Shrivastava S/o Ramkishun Aged About 33 Years R/o Singhai Colony Patpar Bhatapara, Thana & Tahsil Bhatapara, Civil & Revenue District Raipur Chhattisgarh

**---- Revisioner****Versus**

1. Smt. Tanuja Shrivastava W/o Sanjay Kumar Shrivastava Aged About 28 Years Caste Kayasth, R/o Singhai Colony Patpar Bhatapara, Thana & Tahsil Bhatapara, Civil & Revenue District Raipur Chhattisgarh At Present R/o Chandi Para, Thana & Tahsil Pamgarh, Civil & Revenue District Janjgir Champa Chhattisgarh
2. Patth Shrivastava S/o Sanjay Kumar Shrivastava Aged About 4 Years Being Minor Through Their Natural Guardian Mother Smt. Tanuja Shrivastava, Caste Kayasth, R/o Singhai Colony Patpar Bhatapara, Thana & Tahsil Bhatapara, Civil & Revenue District Raipur Chhattisgarh At Present R/o Of Chandi Para, Thana & Tahsil Pamgarh, Civil & Revenue District Janjgir Champa Chhattisgarh
3. Mauli D/o Sanjay Kumar Shrivastava Aged About 3 Years Being Minor Through Their Natural Guardian Mother Smt. Tanuja Shrivastava, Caste Kayasth, R/o Singhai Colony Patpar Bhatapara, Thana & Tahsil Bhatapara, Civil & Revenue District Raipur Chhattisgarh At Present R/o Of Chandi Para, Thana & Tahsil Pamgarh, Civil & Revenue District Janjgir Champa Chhattisgarh

**---- Respondents**


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For Revisioner  
For Respondents

Mr. Punit Ruparel, Advocate  
Mr. Ravi Maheshwari, Advocate

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**SB: Hon'ble Shri Justice P.Sam Koshy****Order On Board****21.10.2016**

1. The present Petition has been filed assailing the impugned order dated 7.2.2015 passed by the Family Court, Janjgir in M.J.C. No. 57/12.
2. The relevant facts for adjudication of the present dispute is that the Revisioner and Respondent No.1 were got married on 26.04.2006 and in due course of time two children were also born from the said wedlock.

Subsequently, it is said that there was ill-treatment, cruelty and torture made upon the Respondent No.1 by the Revisioner husband. Later when the torture became unbearable she was forced to leave her matrimonial home and took shelter at her parental home.

3. Subsequently, she filed an application under Section 125 CrPC seeking maintenance from the Revisioner husband. The Revisioner husband initially entered appearance before the Court below and denied the contentions put forth by the applicant wife before the Court below. However, subsequently he did not participate in the proceeding and the matter was finally decided on the basis of the material available before the Court below and also on the basis of the evidence which was led by the Non-applicant wife finally vide the impugned order 7.2.2015 the Court below allowed the application under section 125 Cr.P.C. and ordered that the husband shall be liable to pay maintenance to Respondent No.1 to the tune of Rs. 2000/- per month and Rs. 1500/- per month each to Respondents No. 2 & 3 respectively thus totaling Rs. 5000/- per month.
4. It is this order dated 7.2.2015 which is under challenge in the present Revision Petition.
5. Learned Counsel for the Revisioner assailing the impugned order submits that the impugned order deserves to be reconsidered on the ground that there was no justified and reasonable cause for the Respondent No. 1 to leave the company of her husband. It was also contended that the Revisioner husband has already initiated proceeding under Section 9 of the Hindu Marriage Act seeking for restitution of conjugal rights before the Court below which is still pending and which shows the bonafide on part of the present Revisioner husband to keep his wife and children but it is Respondent No.1-wife who has without any reason left the matrimonial house. Thus, she was not entitled for any maintenance.

6. It was also contended by the Counsel for the Revisioner that the Court below has proceeded ex parte against the Revisioner without giving sufficient opportunity to the present Revisioner to participate in the proceeding. Thus, prayed for setting aside the impugned order remitting the matter back to the Court below for re-consideration of the entire case again after giving an opportunity to the Revisioner husband to prove his case.
7. Counsel for the Respondents however strongly objected the Petition and submits that a perusal of the impugned order itself clearly reflects that the order is well reasoned and speaking order and does not warrant any interference. Further he submits that it is not the case of the applicant that the Court below has proceeded ex parte against the Revisioner husband so as to remit the matter back to the Court below. It is also contended that the conduct and attitude of the Revisioner sufficiently establishes the fact that there was sufficient reason for Respondent No.1 to leave matrimonial home and live separately. Thus prays for rejection of the Revision Petition.
8. Having considered the rival contention and perusal of the record would clearly reflects that the admitted factual position in the instant case is that there has been a marriage took place between the Revisoiner and the Respondent No.1 on 26.04.2006. Indispensably, Respondents No. 2 & 3 are the children born from the said wedlock. The Respondent No.1, further claimant before the Court below has adduced three witnesses before the Court below and each one of them have categorically stated ill-treatment, torture and manhandling on part of the present Revisioner husband upon the Respondent wife. There was no rebuttal whatsoever on part of the Revisioner husband to disapprove the contentions put forth by the claimant Respondent No.1 wife.
9. In the absence any rebuttal the Court below was justified in drawing an

inference of the submission of Respondent No.1 and the other witnesses to be true and correct and thereby entitling the Respondents to claim maintenance amount from the present Revisioner husband.

10. This Court on perusal of the impugned order as well as the record and the evidence which have been recorded does not find any strong case made out by the Revisioner husband calling for interference with the impugned order.

11. This Court also does not find in pleading on part of the present Revisioner husband in the instant Revision Petition of an allegation that the Court below has wrongly proceeded ex parte against the present Revisioner. In absence of such pleading contention put forth by the Counsel for the Revisioner would not be acceptable.

12. Thus, for the aforesaid reasons this Court is of the opinion that no case has been made out calling for interference with the impugned order, accordingly the present Revision Petition stands dismissed.

**Sd/-**

**(P. Sam Koshy)**  
**JUDGE**