NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 131 of 2017

Mariyum Lakda W/o Satan Kujur Aged About 46 Years R/o Village- Lenjuwa Pokhar, Police Station- Balrampur District- Balrampur- Ramanujganj, Chhattisgarh. At Present R/o Village- Vijaynagar, Police Station- Ramanujganj, District- Balrampur- Ramanujganj, Chhattisgarh.

---- Applicant

Versus

Satan Kujur S/o Late Kala Kujur Aged About 49 Years R/o Village- Lenjuwa Pokhar, Police Station- Balrampur District- Balrampur- Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant : Shri AK Prasad and Shri Shri Rishikant Mahobia, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/02/2017

1. The present revision has been filed assailing the order dated 24.11.2016 passed by the Additional Sessions Judge, Ramanujganj, in Criminal Revision No.R-12/2016.
2. It is a case where the revisional court has set aside the order dated 12.02.2016 passed by the Chief Judicial Magistrate, Balrampur, in Misc. Criminal Case No.78/2014. Vide the said order dated 12.02.2016, the CJM has allowed the application under Section 125 CrPC and have ordered for payment of Rs.2000/- per month as maintenance to the applicant-wife.
3. Learned counsel appearing for the applicant assailing the order submits that it is a case where the revisional court has not properly appreciated the fact that the trial court has considered the merits of the case and

have ordered for maintenance of Rs.2000/- per month in favour of the applicant. He further submits that it is also not in dispute that the applicant was staying separately at her parental home and therefore, in the given facts of the case, the order passed by the trial court should be maintained and order dated 24.11.2016 passed by the revisional court be set aside.

4. Having considered the rival contentions put four by the counsel for the applicant and on perusal of the record what clearly reflects and which has been duly considered by the revisional court is the evidence of non applicant's witness No.2-Raju Kujur, the grown up major son of applicant and respondent, who himself has supported and corroborated the evidence of non-applicant-Husband. In addition to these two witnesses, there was also evidence of Virendra Lakra, non-applicant's witness No.3, who has also supported the evidence of non-applicant's witness No.1&2.

5. The evidence of the non-applicant-Husband which has come on record clearly suggest that he (non-applicant-Husband) had found the applicant in a compromising position with one Ayub Khan in the field and they were caught red handed and were taken to the police station. Thereafter, to avoid further discgrace, the applicant is said to have left the matrimonial home and since then she is residing separately in her parental home. These fact have been corroborated by the grown up son of applicant herself and also by the other witness. In addition, what is also pertinent to note is the fact that so for as this allegation is concerned, there was no cross examination made so as to rebut. Thus, the said averment stood un-rebutted and which has been accepted by

the revisional court.

6. If the revisional court has taken these facts into consideration and have set aside the order passed by the trial court granting maintenance, the same cannot be said to be bad in law. Thus, no strong case is made out calling for interference with the impugned order passed by the revisional court.

7. Accordingly, the revision fails and is dismissed.

Sd/-

(P.Sam Koshy)

Judge

inder