

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 551 of 2007**

1. Smt. Suchita Behara W/o Pramod Behara, aged about 26 years, R/o Tiurpara, Tehsil and District Raigarh, (C.G.)
2. Minor Sumit S/o Pramod Behara aged about 3 years, R/o Tiurpara, Tehsil and District Raigarh, Chhattisgarh.

Through Natural guardian mother Smt. Suchita Behara, W/o Pramod Behara.

---- **Applicants**

versus

Pramod Behara S/o Ujwal Behara, aged about 29 years, Occupation Motor Mechanic and Cultivator R/o Dongripali, Bolangir Road, Thana Dongripali, District Sonpur (Orissa).

---- **Respondent**

For Applicants : None.

For Respondent : Shri F.S.Khare, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

27/01/2017

1. This criminal revision is directed against the order dated 27.07.2007 passed by the Judge, Family Court, Raigarh, in Miscellaneous Criminal Case No. 61 of 2006 whereby he awarded a sum of Rs. 500/- per month only as maintenance to Applicant No. 2, minor son of Applicant No. 1.
2. Briefly stated facts of the case are that the Applicant No. 1 is the wife of Respondent. They were married as per the Hindu rites on 17.04.2002. A male child was born out of this marriage. According to the wife, she was treated by her husband and her in-laws with cruelty and had to leave her matrimonial home three months after her marriage. According to the Applicant No. 1, the Respondent-husband has got married again. The learned Family Court did not grant any maintenance to the Applicant-wife on the ground that she had not given any sufficient cause to live separately and

also on the ground that she being an able bodied person could earn for herself. As far as the child was concerned, the Family Court granted Rs. 500/- per month as maintenance. This order is under challenge before me.

3. The case was decided on the basis of affidavits filed by the parties. The Applicant-wife stated that she was badly treated by her in-laws therefore, she had to leave her matrimonial home. This was refuted by Respondent-husband. The only ground for rejecting claim of the wife is that from 17.07.2002, when she was allegedly turned out from her matrimonial home, till 07.06.2005, the wife did not file any petition nor went to the Court. The Family Judge was totally insensitive to the hard realities of Indian society. An Indian women will not get the support of her own family in approaching the police or the Court straightaway. First of all efforts will always be made within the family to settle the matter, thereafter, within the community or *Biradari* to somehow settle the matter. If nothing works, they will approach the village Panchayat or village elders and only after all efforts fail, then they will go to the Court. Merely because the wife had not filed the petition immediately, in my view, was not a ground to reject the claim of the wife for grant of maintenance. The amount awarded to Applicant No. 2 is also on the lower side.
4. The husband admittedly is a motor-mechanic and has a garage. Even in the year 2007, a motor mechanic would not be earning less than 200-250/- per day and as on date, a motor mechanic would not be earning less than Rs.500 - 600/- per day. Therefore, I award maintenance at the rate of Rs. 1500/- per month to the Applicant-wife and Rs. 750/- per month to the Applicant-minor child.
5. I am aware that it may not be possible for the Respondent-husband to pay the arrears in one lump sum. Therefore, the husband shall, with effect from the month of March, 2017 pay a sum of Rs. 4,500/- each month i.e. Rs.3000/- to the Applicant-wife and Rs. 1500/- to the Applicant-minor child,

till entire arrears are paid off. Thereafter, he shall pay Rs.1,500/- per month as maintenance to the Applicant-wife and Rs. 750/- per month to the Applicant-minor child.

6. Learned counsel for the Applicant-wife is directed to supply bank account number of the Applicant-wife to learned counsel for the Respondent-husband within two weeks from today so that the husband on or before 15th of each month can deposit the amount in the account of the wife directly so that there is no dispute with regard to the amount paid.
7. With these observations, the revision petition is allowed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Subbu