

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 55 of 2017**

1. Kailash Bihari Kaushik (Jaiswal) S/o Shri Bindurlal Jaiswal, Aged About 50 Years Caste-Kalaar, R/o Village Taradaa, Tehsil & Distt. Korba, Chhattisgarh

---- Petitioner**Versus**

1. Smt. Bhagwati Jaiswal W/o Kailash Bihari Kaushik (Jaiswal), Aged About 45 Years Caste Kalaar
2. Kumari Vijay Laxmi Jaiswal D/o Kailash Bihari Kaushik (Jaiswal), Aged About 26 Years Caste Kalaar

Both are R/o Village Faraswani Thana Urga Tehsil Urga Distt. Korba, Chhattisgarh

---- Respondent

For Appellant
For Respondents

Shri Sanjay Patel, Advocate
Shri Ashok Patil, Advocate

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Arvind Singh Chandel**

Judgment on Board**by****PRASHANT KUMAR MISHRA, J.****29/06/2017**

1. Appellant would assail the order passed by the Family Court, Korba, allowing a sum of Rs.4,97,192/- to the respondents who are his wife & daughter, respectively, as the said amount

has been spent by the mother (respondent No.1) in connection with the marriage of daughter (respondent No.2).

2. Admittedly, appellant - Kailash Bihari Kaushik (Jaiswal) and respondent No.1 - Smt. Bhagwati Jaiswal were earlier married, but are presently residing separately without there being any lawful separation or divorce between them. Daughter - Vijay Laxmi Jaiswal (respondent No.2) was born out of their wedlock and in due course she attained the marriageable age, therefore, after finding a suitable match, her marriage was fixed and solemnised at village Faraswani on 30-4-2013.
3. In the application filed before the Family Court, the respondents alleged that the marriage was solemnised with usual pomp & show by performing the necessary religious rites and rituals. In the entire marriage programme as also in gifting the necessary household articles they have incurred expenditure of Rs.4,97,192/-. The break up of which is mentioned in para 4 of the impugned order.
4. Assailing the order impugned, the appellant would submit that the respondent No.1 never cared to allow the appellant to meet his daughter and he was not even invited in the

marriage, therefore, he is not liable to pay or reimburse the expenditure incurred by the respondent No.1 in the marriage of the respondent No.2. In the alternative, he would submit that the account of expenditure is exorbitant and the same has been claimed only to extract money from the appellant. The appellant would next submit that if the respondent No.1 was really in need of money she could have preferred the application before the marriage.

5. Learned counsel appearing for the respondents, *per contra*, would submit that the amount claimed in the petition was duly supported with the bills & vouchers and were also proved by summoning the witnesses who have authored the bills. He would submit that the application was preferred about one month prior to the marriage, however, the application remained pending, but the marriage having been fixed it was required to be performed, therefore, the respondent No.1 had to borrow money for performing the marriage of her daughter. Learned counsel for the respondents would also submit that the appellant was well aware about the marriage programme, yet he did not make any effort to attend the marriage or take care of his daughter by showing fatherly affection and performing *kanyadaan* at the time of marriage.

6. We have heard learned counsel appearing for the parties with their consent.
7. A perusal of the order impugned would indicate that apart from the expenditure incurred in gifting necessary household articles e.g. Utensils, TV, Fridge, Furnitures, Gas Connection, Wrist Watch, Few Ornaments, Trunk Box, etc., the respondent No.1 has also gifted one Bajaj Pulsar Motorcycle valued at Rs.76,000/- and has also shown expenditure of Rs.2,00,000/- in obtaining the tent house service.
8. Ordinarily gift of two wheeler or four wheeler is considered to be dowry. Gifting of such valuable articles by the respondent No.1 who herself claims to be not an earning member appears to be unusual. If she was in need of money she should not have ventured out to gift a motorcycle to her daughter. It is otherwise also opposed to public policy to allow expenditure incurred by the mother in gifting such articles which is treated as dowry. It will encourage such transactions in course of marriage, therefore, this head of expenditure should not have been allowed by the trial Court. The other major expenditure is shown to have been incurred in obtaining services from the tent house.

9. Considering the fact that the marriage happened on 30-4-2013 during summer season and not during rainy season, as also for the reason that the marriage was not in any big city or town, but it was performed at village Faraswani, PS & Tahsil Uрга, District Korba, which is a remotely located village in the tribal district Korba, the said expenditure of Rs.2,00,000/- appears to be on substantially higher side. Even if the said bill has been proved by the concerned service provider, it does not appeal to us that such service could be offered in a small village.
10. Having regard to the social strata to which the parties belong, the location of village, etc. we consider it appropriate to allow the tent house expenditure at Rs.1,00,000/-. The expenditure on other items appears to be reasonable, therefore, from the awarded amount of Rs.4,97,192/-, the amount of Rs.76,000/- towards the price of Bajaj Pulsar Motorcycle and additional amount of Rs.1,00,000/- towards tent house bill deserves to be subtracted. The total amount which should have been allowed in favour of the respondents would come to Rs.3,21,192/- [Rs.4,97,192/- (-) Rs.1,76,000/-].

11. Accordingly, the order passed by the trial Court is modified to the extent that the respondents are entitled to a sum of Rs.3,21,192/- towards the marriage expenditure of the respondent No.2. The appellant shall pay the above amount to the respondents by way of Demand Draft within a period of three months from today.
12. In the result, the appeal is allowed to the extent indicated above, leaving the parties to bear their own cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Arvind Singh Chandel

Gowri