

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 250 of 2012

1. Shankar Banjare S/o Mohan Lal Banjare, aged about 39 years, R/o Village Karhidih, Tahsil Janjgir, District Janjgir – Champa, CG

---- Applicant

Versus

1. Smt. Sheela Kali W/o Shankar Prasad Banjare, aged about 30 years, R/o Village Karhidih, PS Baloda District Janjgir – Champa, CG.
2. Ku. Trishika Banjare D/o Shankar Banjare, aged about 3 years, through her natural guardian mother Smt. Sheela Kali, W/o Shankar Prasad Banjare, aged about 30 years, R/o Village Karhidih, PS Baloda District Janjgir Champa, CG

---- Respondents

For Applicant	:	Shri Amit Kumar, Advocate
For Respondent/State	:	Ms. Neha Verma, Advocate

Order on Board by Pritinker Diwaker, J

04/05/2017

Challenge in this revision is to the order dated 25.1.2012 passed by the Family Court Janjgir Champa in Misc. Criminal Case No. 97/2011 allowing the application filed by the respondents under Section 125 of the Code of Criminal Procedure (hereinafter referred to as “Code”) and granting them maintenance of Rs. 3000/- per month to each of them.

2. According to the case of respondent/wife her marriage was solemnized with the applicant herein on 23.6.2006 and out of their wedlock a daughter (respondent No.2 herein) was born. She filed an application under Section 125 of the Code *inter alia* pleading that the applicant/husband is a Shiksha Karmi Grade-II having monthly income of Rs. 8,500/-; he earns Rs. 5000/- by tuition; and also has

the handsome income from agriculture. It is pleaded that after being ousted by him she is not in a position to maintain herself as also her daughter and therefore, she may be granted monthly maintenance of Rs. 3,000/- for herself and Rs. 5,000/- for her daughter i.e. (Rs. 3000/- as maintenance and Rs. 2,000/- for medical treatment). Applicant/husband, however, has refuted all these allegations made by respondent/wife.

3. Respondent/wife, in support of her case, has examined herself, her mother and others to prove that she is not in a position to maintain herself as also her daughter whereas the applicant has examined himself alone. After hearing the parties and appreciating the evidence on record, the Court below, by the order impugned, has granted monthly maintenance of Rs. 3,000/- to each of the respondents. Hence this revision by the applicant/husband.

4. Counsel for the applicant/husband submits that the maintenance awarded in favour of the respondents is too much on the higher side. He further submits that since respondent No.1/wife is living separately without there being any reason, she is not entitled for any maintenance. He further submits that the applicant/husband has already filed an application under Section 9 of the Hindu Marriage Act and Sections 97 and 98 of the Code of Criminal Procedure, and he is still ready and willing to keep the respondents.

5. On the other hand counsel for the respondents supports the order impugned and submits that the respondent No.1 was subjected to cruelty by the applicant to such an extent that there was no other option before her than living separately. She submits that the applicant is having the monthly income of about Rs.

25,000/- and therefore he capable and to maintain the respondents who are his wife and daughter.

6. Heard counsel for the parties and perused the documents on record.

7. From the material on record it becomes crystal clear that the respondent No.1/wife is living separately along with her minor daughter with freakish health, just on account of cruel treatment of the petitioner/husband. Record further makes it clear that the respondent/husband is Shiksha Karmi Grade-II, and being so he is capable of maintaining the respondents by sparing Rs. 6,000/- per month (3,000/- to each of them) as has been directed by the Court below. Looking to the present day expensive life style, the amount so awarded cannot be said to be on the higher side. In this view of the matter, the order impugned does not appear to suffer from any error of law warranting interference in this revision.

8. Petitioner to pay arrears of maintenance amount within five months from today and then go on paying maintenance regularly.

9. Revision is thus dismissed and the order impugned affirmed.

Sd/-
(Pritinker Diwaker)
Judge