

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 155 OF 2017

Shailendra Sahu, S/o Nemsingh Sahu, aged about 29 years, R/o Village-Ratanghat, Post Karmari, Tahsil- Dongargaon, District Rajnandgaon (C.G.)

... Applicant

Versus

Smt. Renuka Sahu, D/o Avanlal Sahu, W/o Shailendra Sahu, aged about 24 years, R/o Village- Mudpar, Post Surgi, Tahsil & District Rajnandgaon (C.G.)

... Non-applicant

For Applicant : Mr. Abhishek Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/02/2017

1. The present Criminal Revision under Section 19(4) of the Family Courts Act, 1984, has been preferred by the Applicant against the order dated 5.11.2016 passed by the Family Court, Rajnandgaon, in Misc. Criminal Case No. 63 of 2015.
2. Vide impugned order dated 5.11.2016, the Court below in a proceeding under Section 125 of CrPC has allowed the application and ordered the present Applicant for payment of maintenance of Rs.3000/- per month to Non-applicant.
3. Learned Counsel for the Applicant submits that the Court below has not properly appreciated the evidence which have come on record particularly, the fact that there was no justifiable reason on the part of the Non-applicant to leave the matrimonial home. According to him, the Non-applicant has voluntarily, without any reason, left the matrimonial home and therefore she would not have been entitled for maintenance. He further submits that the evidence which have come on record also do not establish the allegations which have been levelled for leaving the matrimonial home, to be correct and thus the impugned order deserves to be set aside/quashed.

4. Having considered the contentions put forth by learned Counsel for the Applicant and on perusal of the record, what is undisputed is the marriage between the Applicant and the Non-applicant thus the relationship of husband and wife is not in dispute. The fact that the Non-applicant has been staying in the parental home is also not in dispute. The Non-applicant in the past also filed a complaint before the police authorities so far as she being subjected to cruelty at the hands of the present Applicant is also undisputed. These are some grounds which are sufficient, which can compel the wife to leave the matrimonial home and therefore it cannot be said that the Non-applicant has left the matrimonial home without any reason.

5. So far as the proceeding under Section 125 of CrPC is concerned, the Court has to only see as to whether prima facie a good case has been made out for grant of maintenance or not. In the instant case, Exhibit P-1, the police complaint, which was earlier made by the Non-applicant against the present Applicant, is a good piece of evidence justifying the reason to leave the matrimonial home.

6. So far as the grant of maintenance awarded by the Court below is concerned, it is only Rs.3000/- per month which has been awarded. Undisputedly, the present Applicant is working as Shiksha Karmi with the State Government and has the paying capacity to meet the amount of maintenance awarded by the Court below. In any case, if the amount of maintenance is distributed into 30 days of a month, it would only reach to a total of Rs.100/- per day, which, by no stretch of imagination, can be said to be exorbitant or on the higher side.

7. Thus, for the foregoing reasons, the present Criminal Revision being totally devoid of merits, the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge