

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 321 of 2017

Rajkumar Ratre, S/o. Dhaneshwar Ratre, Aged About 28 Years, Caste- Satnami, R/o. Village Beldihpatar, Police Station -Basna, Tahsil- Saraipali, District -Mahasamund, Chhattisgarh.

---- Applicant

Versus

Dhatri Bai, W/o. Rajkumar Ratre, Aged About 25 Years, Caste- Satnami, R/o. Jatakanhar, Police Station -Basna, Tahsil- Saraipali, District -Mahasamund, Chhattisgarh.

---- Respondent

For Applicant

: Mr. K.K. Dewangan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/03/2017

1. This petition is against the order dated 10.02.2017, passed in M.J.C. No.125/2015, passed by learned Family Court, Mahasamund (Camp Court Saraipali), whereby the learned Family Court has awarded Rs.2,000/- per month maintenance to the non-applicant/wife.
2. As per the case of the non-applicant/wife, she was married to the present applicant on 08.02.2014. Thereafter, initially for few days they were living together, subsequently, she was subjected to cruelty and eventually on 11.06.2014 all of a sudden, the husband had deserted the wife and fled away. Subsequently, meeting was called in the village, wherein the husband refused to keep his wife

on the ground that he has not been given motor cycle and 10 grams of gold. Thereafter, a report was made by the wife under Section 498-A of I.P.C., wherein it was agreed to stay separately and thereafter, the applicant performed marriage with one another lady of village Savitripur. It is submitted that without any legal divorce, the husband failed to maintain his wife. It is also stated that her husband has holding the land of his father more than five acres and also used to earn by taking other land on lease and further used to earn from bricks sale of Rs.5.00 lakhs per year and thereby an amount of Rs.20,000/- was claimed as maintenance.

3. Per contra, the husband contended that the wife refused to stay along with the husband, despite the fact he went many a times to keep his wife but she herself voluntarily deserted the husband and started living separately. During the trial, the wife was examined as P.W.-1, one Ramlal as P.W.-2, Dhobiram Bhaskar as P.W.-3, whereas the husband was examined as D.W.-1 and one Dhaneshwar Ratre as D.W.-2.
4. Perusal of the order would show that wife has stated that after few days of marriage, she was subjected to cruelty that she has not brought enough dowry and as such she was mentally and physically tortured. Subsequently, motor cycle and gold was demanded and eventually on 11.06.2014, she was left by the husband. The order would also show that in cross-examination this fact is also proved that non-applicant/wife was deserted and she left in her matrimonial house on the ground that unless motor cycle and 10 gram gold, are brought, she will not be kept. P.W.-2, Ramlal and P.W.-3, Dhobiram

Bhaskar have also supported the fact that wife was subjected to cruelty as such she could not stay.

5. The finding of the trial Court would show that husband has deliberately failed to keep his wife as she was subjected to cruelty for which an application was filed in the family counselling. In respect of the income of the husband, the wife has stated that the husband was earning Rs.5.00 lakhs per year. In cross-examination it was admitted that her husband's family received rice under BPL category and witness PW-2, Ramlal also stated that husband also used to work as a labour. With respect to the agricultural income, no evidence was placed on record. However, the fact that husband was working has been established.
6. Therefore, considering the fact that applicant/husband was working as a labour, the amount of Rs.2000/- granted to the non-applicant/wife even, if the, minimum wages are calculated which is payable to a labour, the maintenance granted to wife do not appear to be exorbitant. The prices of goods as escalated in the society can not be ignored and at the same time, it is the obligation of the husband to maintain the wife and even if a person is a labour and is expected to maintain his wife according to his status. Therefore, the award of Rs.2,000/- to the wife can not be said to be exorbitant.
7. In a result, the petition has no merit and is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge