

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.106 of 2014

Order Reserved on : 19.9.2018

Order Passed on : 22.11.2018

1. Smt. Aarti Bai, W/o Shri Devendra Kumar Kaushik, aged about 34 years,
2. Ku. Maya, D/o Shri Devendra Kumar, aged about
3. Dakeshwar Ram, S/o Shri Devendra Kumar, aged about

Applicants No.2 and 3 are minor through Natural Guardian Mother Smt. Aarti Bai,

All R/o Subhash Nagar, Mitani Chowk, Behind Talwar Bhawan, Kasari Deeh, Durg, At present R/o Near Ram Nagar, Gauthan Ward No.1, Kawardha, Tahsil and Police Station Kawardha, Civil and Revenue District Kabirdham, Chhattisgarh

---- Applicants

versus

Devendra Kumar Kaushik, S/o Shri Dwarika Ram Kaushik, aged about 41 years, Occupation Electrician, R/o Subhash Nagar, Mitani Chowk, Behind Talwar Bhawan, Kasari Deeh, Durg, Tahsil and Police Station Durg, Civil and Revenue District Durg, Chhattisgarh

--- Respondent

For Applicants	:	Shri Amit Kumar Sahu, Advocate
For Respondent	:	Smt. Renu Kochar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. The instant revision is directed against the order dated 30.12.2013 passed by the Judge, Family Court, Kabirdham in M.Cr.C. No.13 of 2013, whereby the Family Court has rejected the application under Section 125, Cr.P.C. with regard to the Applicant No.1 and allowed the application with regard to Applicants No.2 and 3 and granted each of them monthly maintenance of Rs.3,000/-, total Rs.6,000/-.

2. It is not in dispute that Applicant No.1 is legally wedded wife of the Respondent and Applicants No.2 and 3 are their legitimate children. It is also not in dispute that presently all the Applicants are residing separately from the Respondent.
3. As pleaded by the Applicants, marriage of Applicant No.1 was solemnised with the Respondent on 3.6.1994 and out of their wedlock, Applicants No.2 and 3 took birth. Applicant No.1 lived happily with the Respondent for about 2 years. Thereafter, she was being subjected to harassment by the Respondent and his family members. They used to demand a motorcycle or cash from her. 2½ years prior to filing of the application under Section 125, Cr.P.C., she was expelled out from her matrimonial house after beating. Since then she is residing separately along with her children/Applicants No.2 and 3. Applicant No.1/wife is unable to maintain herself. The Respondent is employed as an Electrician in Bhilai Steel Plant and is getting monthly salary of Rs.35,000/-. He also owns an agricultural land measuring about 12 acres at Village Gochhiya, District Kabirdham.
4. In his reply, the Respondent denied all the allegations and pleaded that Applicant No.1/wife is residing separately without any reasonable case. She herself did not want to live with him. Her behaviour with his family members was of cruel nature. She used to go to her maternal house frequently without informing him. Finally, without informing him, she went to her maternal house and thereafter she did not return. Since she is residing separately without any reasonable cause, she is not entitled to get any maintenance. He is employed in Bhilai Steel Plant and is getting

monthly salary of Rs.23,000/- only.

5. Applicant No.1/wife examined herself as Applicant Witness No.1. She also examined one Jeevan as Applicant Witness No.2. The Respondent examined himself as Non-Applicant Witness No.1.
6. The Family Court rejected the application of Applicant No.1/wife for maintenance and granted monthly maintenance of Rs.3,000/- each in favour of Applicants No.2 and 3. Hence, the instant revision by the Applicants.
7. Learned Counsel appearing for the Applicants submitted that despite the fact and the evidence available on record that Applicant No.1 has reasonable and sufficient cause to reside separately from the Respondent, the Family Court, without appreciating the fact and the evidence, rejected the application of Applicant No.1 for grant of monthly maintenance. He further submitted that looking to the monthly income and financial status of the Respondent, the grant of monthly maintenance of Rs.3,000/- each in favour of Applicants No.2 and 3 is on lower side and deserves to be enhanced suitably.
8. Learned Counsel appearing for the Respondent submitted that since Applicant No.1/wife is residing separately without any reasonable cause, the Family Court has rightly rejected her application for maintenance. Looking to the salary of the Respondent, the grant of monthly maintenance of Rs.3,000/- each in favour of Applicants No.2 and 3 is just and proper.

9. I have heard Learned Counsel appearing for the parties and perused the record with due care.
10. Both Applicant No.1/wife and the Respondent/husband have deposed before the Court commensurate to their pleadings. In her cross-examination, in para 16, Applicant No.1/wife has stated that she was unable to state that on which occasions/times she was beaten for demand of motorcycle or cash. In para 19 also, she has admitted that she never made any complaint or report against the Respondent/husband or his family members. Though Applicant Witness No.2, Jeevan has supported the case of Applicant No.1, in his cross-examination he has also admitted that he deposed before the Court as was told to him by Applicant No.1. From the evidence, it is clear that Applicant No.1 was unable to state that on which occasions/times she was beaten and demand for motorcycle or cash was made from her. She never made any complaint or report with regard to the demand or the harassment nor did she call any social meeting in this regard. Thus, she was being subjected to cruelty or harassment for any demand is suspicious. In these circumstances, the finding of the Family Court that Applicant No.1/wife is residing separately from the Respondent without any reasonable cause is based on the evidence available on record and is in accordance with law. Therefore, Applicant No.1/wife is not entitled to get any maintenance from the Respondent.
11. As regards quantum of the maintenance granted to Applicants No.2 and 3, the Respondent has admitted the fact that he is employed as an Electrician in Bhilai Steel Plant. There is also

some document available on record that he also owns and possesses some agricultural land. He has no other responsibility. Looking to the financial status of the Respondent, the grant of monthly maintenance of Rs.3,000/- each in favour of Applicants No.2 and 3 is on lower side. Therefore, the monthly maintenance granted to Applicants No.2 and 3 is enhanced from Rs.3,000/- each to Rs.4,000/- each, i.e., total Rs.8,000/- payable with effect from today itself.

12. Consequently, the revision is allowed in part to the extent indicated above.
13. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(**Arvind Singh Chandel**)
JUDGE