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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.38 of 2016

Order Reserved on : 3.7.2018

Order Passed on : 3.10.2018

Chatrapal Lahre, aged about 32 years, S/o Bhasker Lahre, By Caste Suryavanshi, R/o Village Mehendi, Tahsil Pamgarh, Thana Shivrinarayan, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

1. Smt. Rajni Lahre, aged about 25 years, W/o Chatrapal Lahre,
2. Somiya, aged about 2 years, D/o Chatrapal, being minor through mother Smt. Rajni Lahre, aged about 25 years, W/o Chatrapal Lahre,

Both R/o Village Mehendi, Tahsil Pamgarh, Thana Shivrinarayan, District Janjgir-Champa at Present R/o Padriya, Tahsil Pamgarh, Thana Shivrinarayan, District Janjgir-Champa, Chhattisgarh

--- Respondents

For Applicant	:	Shri Parag Kotecha, Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. The instant revision has been preferred against the order dated 30.11.2015 passed by the Family Court, Janjgir, District Janjgir-Champa in M.Cr.C. No.155 of 2014, whereby the Family Court has allowed the application under Section 125 of the Cr.P.C. moved by the Respondents and granted maintenance of Rs.2,000/- per month in favour of Respondent No.1 and that of Rs.1,500/- per month in favour of Respondent No.2, total Rs.3,500/- per month.
2. Admittedly, the Respondents are wife and daughter of the Applicant. The daughter is living with mother/Respondent No.1. Marriage between the Applicant and Respondent No.1 was

solemnised on 2.5.2009. Out of their wedlock, total two children took birth. Out of the two children, son Paras is living with father/Applicant. As per the pleadings of Respondent No.1/wife, the Applicant/husband subjected her to cruelty after the marriage for demand of dowry. She told about this to her maternal family members. They tried to inculcate the Applicant. In November, 2011, the Applicant kept son Paras with him and after beating her, who, at that time, was pregnant, ousted her from his house. She came to her maternal house. There, a girl child took birth, but nobody visited her at her maternal house on behalf of the family of the Applicant. She is unable to maintain her. The Applicant/husband possesses 8 acres of agricultural land and he also runs a business of selling of cloths. The Applicant has pleaded that he never made any demand for dowry nor did he ever subject the Respondent No.1/wife to cruelty. She is living separately from him without any reasonable cause. She herself left the matrimonial house. He was not informed about the delivery of the girl child. When he went to the maternal house of the Respondent No.1/wife to bring her back, she refused to come. He has further pleaded that before the marriage, family members of the wife had already accepted Christian religion and he was not told about this fact at the time of marriage. The wife was forcing him to adopt the Christian religion. When the nomenclature of the son was made according to Hindu customs, she got annoyed and left him and her son and returned her maternal house. He is not in possession of any land and he also does not run any business. He is engaged in doing labour work.

3. Respondent No.1/wife examined herself along with her brothers

Hemlal and Kamleshwar and one other witness Ramnarayan. The Applicant examined himself and one witness Laxman. The Family Court, vide the impugned order dated 30.11.2015, allowed the application under Section 125 of the Cr.P.C. and granted maintenance in favour of the Respondents as stated in the first paragraph of this order. Hence, this revision.

4. Learned Counsel appearing for the Applicant submitted that Respondent No.1/wife is living separately from the Applicant without reasonable cause and, therefore, she is not entitled to get any maintenance from him. The Applicant has no means to maintain both the Respondents. The maintenance granted by the Family Court is on higher side because the Applicant is a daily wager.
5. No one appeared on behalf of the Respondents.
6. I have heard Learned Counsel appearing for the Applicant and perused the record with due care.
7. There is no dispute that the Respondents are wife and daughter of the Applicant and they are residing separately from him. The Respondent/wife has categorically stated that she lived at her matrimonial house for about 2 years. The husband, during this period, subjected her to cruelty for demand of dowry. He used to abuse and beat her. He also used to threat her that he will burn her. Her this statement has not been rebutted during her cross-examination by the husband. Her statement is also corroborated by her witnesses Hemlal, Kamleshwar and Ramnarayan.

8. The Applicant has deposed that after the birth of son Paras, the wife left him and returned her maternal house. When he went to bring her back, a meeting took place in which after inculcation, she came his house. But, only 2 months thereafter, she again left his house and returned her maternal house leaving him and her son. As stated by the wife and her witnesses, the Applicant used to abuse and beat the wife to which he has not rebutted. In 2011, when she allegedly left him and returned her maternal house, he ever tried to bring her back, no evidence in this regard has been adduced by him. There is also no evidence on record to show that he ever took any legal action to bring her back. During cross-examination of the wife, he has levelled an allegation on her character. This allegation itself is a sufficient cause for her to live separately from him. Therefore, the Family Court has rightly arrived at the conclusion that the wife is living separately from the husband with sufficient cause.
9. With regard to quantum of the maintenance, the wife has stated that the husband has 7-8 acres of land in his possession and he also has a concrete mixture machine and a tractor. The wife's witnesses Hemlal and Kamleshwar have also stated that the husband owns a concrete mixture machine. Though no document has been filed regarding possession of the agricultural land by the husband, in paragraph 9 of his cross-examination, the husband has admitted the fact that presently he runs a concrete mixture machine and the husband's witness Laxman has also admitted this fact that the husband has a concrete mixture machine in his possession. He has also admitted the fact that father of the Applicant/husband owns 8 acres of agricultural land and they have

one tractor also.

10. From the above, it is clear that the Applicant has sufficient means to maintain the Respondents. Therefore, looking to the financial status of the Applicant, grant of monthly maintenance of Rs.2,000/- in favour of Respondent No.1/wife and that of Rs.1,500/- in favour of Respondent No.2/daughter is just and proper.
11. I find no merit in the revision. It is, therefore, dismissed.
12. Record of the Family Court be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE