

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 491 of 2018**

Manoj Kumar Gupta S/o Shri Rajkumar Gupta Aged About 40 Years R/o Balauda, P.S., Tehsil Balauda, District Janjgir Champa, Chhattisgarh (Revisionist/applicant), District : Janjgir-Champa, Chhattisgarh

---- Petitioner

**Versus**

Smt. Rashmi Gupta W/o Manoj Kumar Gupta Aged About 36 Years R/o Ashwani Nagar, Hanuman Nagar, Beside Street Of Goswami Provision Store, Laxmi Niwas, District Raipur, Chhattisgarh (Non Applicant), District : Raipur, Chhattisgarh

---- Respondent

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| For Petitioner | : | Shri Rakesh Pandey, Advocate |
| For Respondent | : | Shri J.K. Gupta, Advocate    |

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**S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**31/08/2018**

Heard.

1. This petition has been filed by the petitioner against order dated 16.02.2018 by which the petitioner's revision against an order of grant of maintenance to wife in proceedings under Section 20 of the Protection of Women from Domestic Violence Act has been dismissed.
2. Learned counsel for the petitioner argues that the Court below has directed payment of Rs.5,000/- as maintenance without taking into consideration that the petitioner is a person of meager means and he is only a labourer working in the hotel run by his father. It is submitted that at the time when application was filed by the wife she was living separately and therefore order of grant of maintenance of Rs.5,000/- to the wife is excessive and the same is liable to be reduced. Learned counsel for the petitioner further submits that despite a compromise order passed in proceedings for restitution of conjugal rights,

respondent is again not residing with the petitioner.

3. On the other hand, learned counsel for the respondent opposed the petition.
4. The Magistrate has only passed an order of maintenance payable to the wife. The main application is still pending consideration. Taking into consideration that on petitioner's own showing, he is working along with his father who is running a hotel business, award of Rs.5,000/- as maintenance during pendency of the proceedings before the Magistrate cannot be said to be excessive so as to warrant interference by this Court under Section 482 Cr.P.C. Whether or not it is a case of domestic violence would be decided by the Jurisdictional Magistrate after recording evidence. At this stage, it cannot be held either way whether the respondent is living separately for no reasonable or sufficient cause or that because of violence to which she has been subjected to, she is not residing with the petitioner.
5. The petition is therefore dismissed.

Sd/-  
**(Manindra Mohan Shrivastava)**  
Judge