

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.338 of 2018

Prem Kumari, W/o Manoj Ram, aged about 19 years, Caste Routiya, R/o Jhargaon, Tahsil Duldula, District Jashpur, Chhattisgarh

---- Applicant

versus

Manoj Ram, S/o Khulan Ram, aged about 22 years, Caste Routiya, R/o Kansabel, Tahsil Kansabel, District Jashpur, Chhattisgarh

--- Respondent

For Applicant	:	Shri S.S. Paikra, Advocate
For Respondent	:	Shri Govind Dewangan, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

19.11.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 23.2.2018 passed by the Family Court, Jashpur in M.Cr.C. No.38 of 2017, whereby the application preferred under Section 125 of the Code of Criminal Procedure by the present Applicant has been rejected by the Family Court.
3. Facts, in brief, are that marriage of the Applicant was solemnised with the Respondent on 27.4.2016. After the marriage, she was happy, but thereafter, she fell ill due to some disease and started suffering from the said disease. The Respondent/husband did not get her medically treated and after beating expelled her out of his house. Thereafter, her father got her medically treated and after

treatment he took her to her matrimonial house, but the Respondent/husband refused to keep her with him. She is unable to maintain herself. The Respondent/husband owns 10 acres of agricultural land and earns Rs.12,000/- per month from that land.

4. The Respondent/husband, in reply, pleaded that the Applicant/wife is residing separately from him without any reasonable cause and, therefore, she is not entitled to get any maintenance from him.
5. After recording evidence of both the parties, the Family Court, vide the impugned order dated 23.2.2018, has rejected the application of the Applicant/wife on the ground that she is residing separately from the Respondent/husband without any reasonable cause and, therefore, she is not entitled to get any maintenance.
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. Applicant/wife Prem Kumari, as Applicant Witness No.1, in her examination-in-chief, has categorically stated that after the marriage, she lived happily for about one month. Thereafter, she fell ill, but the Respondent/husband did not get her medically treated and after beating her in her ill-condition he expelled her out of his house. She has further stated that her treatment was got done by her father and thereafter when her father took her to her matrimonial house, the Respondent/husband refused to keep her with him. When she was again taken to her matrimonial house, she was again refused to be kept there saying that she was suffering from the disease from her childhood. The above

statement of the Applicant/wife is not rebutted during her cross-examination. Though her mother Pushpa, as Applicant Witness No.2, has stated that a social meeting was held at the house of the Respondent, but in that meeting, the Applicant had refused to live with the Respondent. This witness has also stated that the Respondent used to quarrel with the Applicant and, therefore, the Applicant refused to live with him.

8. Respondent Manoj Ram, as Non-Applicant Witness No.1, in his cross-examination, in paragraph 8, has also admitted the fact that after treatment of the Applicant/wife, her father had brought her to his house. He has also admitted that on 23.1.2018, when he had gone to the paternal house of the Applicant/wife, father of the Applicant was not present at the house, therefore, family members of the Applicant refused to send her back with him.
9. From the above, it is clear that the Applicant/wife used to remain ill and her husband/Respondent did not get her medically treated and in her ill-condition he had left her at her paternal house. From the unrebutted statement of the Applicant/wife, it is also clear that after her treatment, when her father took her to her matrimonial house, the Respondent/husband refused to keep her with him. Even at the second instance, when she was taken to him, he refused to keep her with him. Though the Respondent had once gone to the paternal house of the Applicant, as the father of the Applicant was not present at the house, the Applicant was not sent back with the Respondent to her matrimonial house. Thereafter, he again tried to take her back with him has not been stated by him. From the above, it is clear that the Applicant/wife is residing separately from

the Respondent/husband with sufficient and reasonable cause. Therefore, the finding of the Family Court in this regard is not in accordance with the evidence adduced by the parties and law.

10. As pleaded and stated by the Applicant/wife, she is unable to maintain herself. The Respondent owns some agricultural land. Thus, it is also clear that the Respondent has sufficient means to maintain the Applicant. Looking to the social status of the parties and the financial status of the Respondent/husband, a sum of Rs.2,500/- per month is granted as maintenance in favour of the Applicant/wife payable with effect from today.
11. Consequently, the revision is allowed to the extent indicated above.
12. 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