

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 508 of 2013**

Smt. Manju Vaishnav, W/o Madhavdas Vaishnav, aged about 34 years, R/o Tharhidih, P.S. Kasdol, Civil, Revenue & Distt. Raipur (C.G.). Presently R/o – Tarod, P.S. & Tahsil Akaltara, Civil, Revenue & Distt. Janjgir-Champa (C.G.).

----Applicant

Versus

Madhavdas Vaishnav, S/o Bhuneshwar, aged about 38 years, Caste- Vaishnav, R/o Tharhidih, P.S Kasdol, Civil Revenue & Distt. Raipur (C.G.).

---- Respondents

For Applicant	:	Mr. Anil S. Pandey, Advocate
For Respondents	:	Mr. Anurag Dayal Shrivastava, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board**

26/10/2018

1. This revision has been preferred against the order dated 28/05/2013 passed by the Family Court, Janjgir-Champa passed in MJC No. 139/2010, whereby the learned Family Court rejected the application filed by the applicant under Section 125 of the Cr.P.C for maintenance.
2. The case of the applicant/wife is that she is legally wedded wife of the respondent. Their marriage took place 16-17 years back. The respondent had left her in her matrimonial house without any reason. It was pleaded by her that when she went to attend the funeral of her father, the respondent did not go there. After some time when she again gone to her matrimonial house, then the applicant dispelled her from his house and since then she is residing separately. It was further pleaded that she is unable to maintain herself. The respondent has owned 7 acres of agricultural land and also works as Purohit, therefore, the

respondent has sufficient mean to maintain her.

3. The respondent/husband pleaded that the applicant herself had left his house. She is residing separately without sufficient cause, therefore, she is not entitled to get any maintenance from him. It was further pleaded that he has no source of income, therefore, he is unable to maintain the applicant.
4. The applicant herself examined as Applicant Witness No.1 and one Manharan as Applicant Witness No.2. The respondent himself examined as Non-Applicant Witness No.1 and one Ram Das as Non-Applicant Witness No.2.
5. After recording the evidence, vide impugned order dated 28/05/2013, the learned Family Court rejected the application of the applicant on the ground that she is residing separately without reasonable cause. Therefore, she is not entitled to get any maintenance from the respondent.
6. I have heard both the counsel for the parties and perused the record.
7. There is no dispute that the applicant is legally wedded wife of the respondent and is residing separately from him since 15 years. In her Court statement, the applicant has categorically stated that before 10-12 years, she visited to her matrimonial house to see her sister and after 3-4 days when she returned to the house of the respondent, the respondent/husband refused to keep her with him and since then she is residing separately in her matrimonial house. She further stated that she twice tried to go to the house of the respondent, but the respondent refused to keep her with him. The above statement of the applicant is

not rebutted during her cross-examination by the respondent.

8. Though the respondent has deposed that the applicant herself left the house, there is nothing on record which shows that any village meeting or any legal action has been taken by him to bring the applicant back. In his cross-examination, the respondent/husband also leveled the allegation against the present applicant that her character was not good and one Haitram used to visit to the house of the applicant. From the above, it is clear that the respondent/husband used to doubt the character of the applicant.
9. From the above evidence, it is clear that she visited her matrimonial house for some time, and when she returned to the house of respondent/husband, he refused to keep her with him. Thereafter, the applicant twice tried to go to the house of the respondent, but the respondent/husband refused to keep her with him. Even, no effort has been made by the respondent to bring the applicant. On the contrary, he doubted the character of the applicant. In these circumstances, it is clear that the applicant is residing separately with sufficient and reasonable cause and the learned Family Court without any reasonable ground arrived to the conclusion that the applicant/wife had not sufficient ground to reside separately. Therefore, the finding of the Family Court is not in accordance with law.
10. With regard to the maintenance, it is clear that presently the applicant is unable to maintain herself. The respondent owned some agricultural land and also works as Purohit. Considering the above fact and social status of both the parties as also the financial status and earning capacity of the

respondent, it is directed that the respondent shall pay Rs. 2000/- monthly maintenance to the applicant. The said amount of maintenance shall be payable from today.

11. Consequently, the order dated 28/05/2018 passed by the Family Court is set-aside. The revision is allowed to the extent indicated above.

Sd/-

(Arvind Singh Chandel)
Judge