

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.891 of 2018**

1. Smt. Neelam, W/o Bhagya Singh Rajput Lodhi, aged about 30 years,
2. Ku. Laxmi, D/o Bhagya Singh Rajput Lodhi, aged about 06 years,
Minor through natural guardian mother Neelam Rajput Lodhi,
Both presently residing at Village Beltukri, Post Sambalpur, Tahsil
Navagarh, District Bemetara, Chhattisgarh

---- Applicants**versus**

Bhagya Singh, S/o Ishwar Lodhi, aged about 33 years, R/o Village
Pendri, Post Kanvrakanpa, Police Station and Tahsil Navagarh,
District Bemetara, Chhattisgarh

--- Respondent

For Applicants	:	Shri Amit Kumar Sahu, Advocate
For Respondent	:	Shri C.K. Sahu, 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 3.8.2018, whereby the Family Court, Bemetara has rejected the application moved under Section 125 of the Code of Criminal Procedure with regard to Applicant No.1/wife, but has granted maintenance of Rs.2,000/- per month in favour of Applicant No.2/daughter.
3. It is not in dispute that Applicant No.1 is legally wedded wife of the Respondent. Their marriage was solemnised on 14.5.2011. It is also not in dispute that Applicant No.2 is a legitimate child of the Respondent. The Family Court has rejected the application with

regard to Applicant No.1/wife on the ground that she is living separately from the Respondent/husband without any reasonable cause.

4. Learned Counsel appearing for the Applicants submits that despite there being evidence available on record that Applicant No.1/wife had made a report of demand of dowry against the Respondent/husband and also that there is sufficient evidence on record on the basis of which it seems that Applicant No.1/wife has sufficient cause to reside separately from the Respondent, the Family Court, without appreciating the same, has rejected the application of Applicant No.1/wife.
5. Learned Counsel appearing for the Respondent submits that from the evidence on record itself it is clear that Applicant No.1/wife is residing separately from the Respondent/husband without any reasonable cause and, therefore, the Family Court has rightly rejected her application
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. In paragraph 7 of her cross-examination, Applicant No.1/wife has admitted the fact that for the last 6 years she is living at her paternal house. She has also admitted the fact that during this period, the Respondent/husband came to take her back many times and several social meetings were also convened in this regard. She has also admitted the fact that after decision in a social meeting, the Respondent/husband lived with her at her

paternal house. Thereafter, as was settled in the social meeting, she had to go to her matrimonial house with the Respondent/husband, but she did not go there with him. In paragraph 13 also, she has admitted the fact that against the Respondent/husband, she had made a report of demand of dowry in the year 2017, but as admitted by herself, she was residing at her paternal house since 2011. Thus, it is clear that after a period of 6 years, she made the said report of demand of dowry. In paragraph 13, she has further admitted that the Respondent/husband was going to perform second marriage and, therefore, to prevent him from performing second marriage, she lodged the said report of demand of dowry. Thus, it is clear that without there being any demand for dowry by her husband, she lodged the false report against him. Therefore, looking to the above evidence, it is clear that Applicant No.1/wife is residing separately from the Respondent/husband without any reasonable cause. Thus, the finding of the Family Court in this regard is in accordance with the evidence available on record and law.

8. With regard to quantum of maintenance granted in favour of Applicant No.2/daughter, it is argued that looking to the financial status of the Respondent, the maintenance granted to the daughter is on much lower side.
9. In paragraph 3 of his examination-in-chief, the Respondent has admitted the fact that about 20 acres of agricultural land is jointly registered in his and his father's name. Thus, it is clear that the Respondent has sufficient means to maintain his daughter/Applicant No.2.

10. Looking to the financial and social status of the parties and earning capacity of the Respondent, the maintenance of Rs.2,000/- granted in favour of Applicant No.2/daughter is enhanced to Rs.4,000/- per month payable with effect from today.
11. Consequently, the revision is allowed in part 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