

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 990 of 2017****Order Reserved on 19/09/2018****Order delivered on 02/11/2018**

Siddhgopal Choudhary, aged 53 years, S/o Late Shri Ramgopal Choudhary, Stamp Vendor, Registration Office Collector, Bilaspur, P.S. Civil Line, Tahsil & District- Bilaspur (C.G.).

--- Applicant

Versus

Smt. Ranu Choudhary, aged about 40 years W/o Siddhgopal Choudhary, R/o J.P. Vihar, Colony, Phase-2 Mangla, P.S. Civil Lines, Tahsil & District- Bilaspur (C.G.).

---- Respondent

For Applicant	:	Mr. Ritesh Verma, Advocate.
For Respondent	:	Mr. Rishikant Mahobia, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

CAV Order

1. This revision has been preferred against the judgment dated 24/08/2017 passed in MJC No. 507/2016 by the Additional Principal Judge, Family Court, Bilaspur, whereby the learned Family Court has allowed the application submitted under Section 125 of the Cr.P.C and granted monthly maintenance of Rs. 1000/- in favour of the respondent.
2. According to wife, the facts of the present case are that she is legally wedded wife of the applicant. They have two children, borned from their wedlock. After marriage, she was residing with the respondent in his

house at Gondpara, Bilaspur. Their younger son was mentally challenged and ultimately died in the year 2005. At present, she is residing separately. It was further pleaded by her that the applicant was heavy drinker and after getting drink, he used to quarrel and assault her and her son. From last two years, he is not residing with them and was not taking care as financial and other means. They are unable to maintain themselves and the applicant has sufficient mean to maintain them.

3. The applicant/husband denied the allegations of the respondent/wife and pleaded that he is taking proper care to look after his wife and child by giving them all kind of facilities. It was further pleaded that he is Stamp vendor and is getting commission only of Rs. 13,080/- yearly. Though he is having a shop at Sanichir Bazaar, which is in dispute and he does not receive anything from that shop. It was also pleaded that he is ready to maintain her wife and child, if they reside together with him. The wife is residing separately without reasonable cause, therefore, she is not entitled to get any maintenance.
4. The respondent/wife examined herself as Applicant Witness No. 1 and examined one Krishna Kumar as Applicant Witness No.2. The applicant, herein examined himself as Non-Applicant No. 1 and one Santosh as Non-Applicant Witness No. 2.
5. After recording the evidence, vide impugned order dated 24/08/2017, the learned Family Court had granted monthly maintenance of Rs. 1000/- in favour of the respondent/wife.
6. Counsel for the applicant/husband submits that it is an admitted fact that

the respondent/wife is residing in the house of the applicant/husband. She is also getting rent from the said house, therefore, she is not entitled to get any maintenance from husband. He further submits that the applicant is a stamp vendor who is getting only commission which is not fixed. The applicant takes shelter at the house of his friend and he is unable to give maintenance to the respondent/wife. But the learned Family Court ignored this fact and granted maintenance in favour of the respondent/wife. Therefore, the order may be set-aside.

7. Counsel for the respondent/wife supported the impugned order.
8. I have heard counsel for both the parties.
9. From the perusal of the record and evidence adduced by the parties, it is clear that the respondent/wife is residing separately from the applicant with sufficient cause and she has no mean to maintain herself. Though she is residing in the house of the applicant, there is nothing on record on the basis of which it can be presumed that she is getting any rent from the said house. The applicant/husband has admitted the fact that he is working as Stamp Vendor and having a shop also. He also admitted the fact that he has been working as Stamp Vendor since 1995 and from the income of said work, he initially purchased a plot at Village- RATHERA and thereafter, he disposed of that plot and purchased a house which is presently in possession of wife. He also admitted the fact that in the year 1992, he purchased a shop at Sanichri Bazar, Bilaspur. Thus, from the above averment, it is clear that the applicant has sufficient mean to maintain her wife/respondent.

10. Considering, the above facts, the learned Family Court had rightly granted Rs. 1000/- monthly in favour of respondent, which in my considered view is just and proper and requires no interference.
11. In the result, the revision has no merit and the same deserves to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul