

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 762 of 2015**

Ravishankar Kaushal (Kotendra) S/o Shri Mahaveer Kaushal, aged about 46 years R/o Village- Siwni, Thana Balod, Civil & Revenue, Distt. Balod (C.G.)

---- Applicant**Versus**

Smt. Janki Bai Kaushal W/o Shri Ravishanker Kaushal, aged about 43 years, R/o Ward No. 19, Subhash Chowk, Dallirajahra, Thana & Tahsil- Doundi, Civil & Revenue Distt- Baloda (C.G.).

---- Respondent

For Applicant	:	Mr. Samir Singh, Advocate
For Respondents	:	Ms. Laxmin Kashyap, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**02/04/2019**

1. This revision has been preferred against order dated 04/08/2015 passed in Criminal MJC No. 37/2013 by the Family Court (Link Court) Balod, whereby the learned Family Court has granted monthly maintenance of Rs. 1200/- in favour of the Respondent.
2. Facts of the case are that the marriage between the Applicant and the Respondent was solemnized in the year 1986. After the marriage, the Respondent/Wife resided together with the Applicant for about 6 months. In the year 2013, she preferred an application under Section 125 of the Cr.P.C with the averment that when she was carrying pregnancy of 5 months, the Applicant abused him and tortured physically and mentally, therefore, she started to reside separately with

her parents. It was further pleaded that her daughter namely Ku. Mona got birth in her paternal house. At that time, the Applicant did not bear any expenses of delivery and he also not provided any amount for maintenance of her and her daughter. It was further pleaded that the Applicant without taking any divorce from her, has kept one lady with him as wife. It was pleaded by him that she is unable to maintain herself and the Applicant has sufficient means to maintain her.

3. The Applicant in his reply denied all the allegations made against him. It was pleaded by him that the Respondent only resided with him for about 4 months, thereafter, she left his house and living adulterous life. It was pleaded by him that since divorce has been taken place between both of them before the Committee, therefore, he kept second wife with him. It was pleaded by him that daughter of the Respondent is working as Siksha Karmi and the Respondent is residing with her and the Respondent is not in need of any maintenance from her, she only filed the application to harass the Applicant.
4. After recording the evidence of both the parties and hearing their submission, the Family Court vide impugned order dated 04/08/2015 granted monthly maintenance of Rs. 1200/- in favour of the Respondent. Thus, this revision.
5. Counsel for the Applicant submits that as per the document submitted by the Respondent/ Wife i.e. Ex.P-1, it is clear that she has a son also. Since the Respondent had only resided together with the Applicant for

about 4 months and thereafter no cohabitation took place between them, therefore, this son is not of the Applicant. He further submits that from the above it is clear that she is living adulterous life, therefore, she is not entitled to get any maintenance. He further submits that the Respondent is residing separately since 1996 and after more than 25 years, she had filed this application only to harass the Applicant, but ignoring this fact, the Family Court has granted maintenance in her favour.

6. Counsel for the Respondent supported the impugned order.
7. I have heard counsel for the parties and perused the records.
8. There is no dispute on the point that the Respondent is legally wedded wife of the Applicant. There is also no dispute on the point that after the marriage when the Respondent got pregnancy of 5 months, she was living separately in her parental house, where her daughter got birth.
9. The Respondent has submitted a Rasan Card (EX.P-1) before the Family Court, wherein it is mentioned that she also has a son namely Kuldeep Kumar, and only on this ground, counsel for the Applicant submitted that the Respondent is living adulterous life, however, the said document was not confronted before the Respondent and even no question has been asked from her that whether the said Kuldeep is her son or not. Therefore, without there being any evidence, it is not established that the said Kuldeep, son of the Respondent, got birth from someone else. Though it was pleaded by the Applicant that the

Respondent has illicit relation with Nathu, the Respondent has categorically denied this fact during her cross examination. There is no evidence submitted by the applicant which shows that the Respondent has lived with the said Nathu or someone else. Thus, it is not established that the Respondent/ Wife has illicit relation with Nathu or someone else. From the admission of the Applicant, it is clear that without taking any legal divorce, he has performed second marriage with another lady, therefore, this fact is sufficient reason for the Respondent to reside separately.

10. With regard to quantum of maintenance, the Family Court has granted Rs. 1200/- as monthly maintenance, which in my considered view is just and proper and requires no interference.
11. Consequently, the revision has no merit and the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge