

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 58 of 2018**

- Ashok Dewangan S/o Horilal Dewangan, Aged About 39 Years R/o Dewangan Para, Devkar, P.S. Devkar, District Bemetara, Chhattisgarh.

---- Applicant**Versus**

- Smt. Sanjana @ Beenu Dewangan W/o Ashok Dewangan, R/o. Lig. 347, Aaditya Nagar, Behind Bhale Provision, P. S. Mohan Nagar, Durg, District-Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Malay Jain, Adv.
For Respondent	:	Mr. Aditya Tiwari, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****16/09/2019**

1. The present revision has been filed by the applicant against the order dated 27.12.2017 in Criminal MJC No. 888/2015 passed by the learned Principle Judge, Family Court, Durg, C.G. whereby the learned trial Court has allowed the maintenance application filed by respondent under Section 125 of Cr.P.C. and awarded Rs. 5,000/- as monthly maintenance.
2. Brief facts of the case are that, before trial Court, respondent (wife) filed an application under Section 125 Cr.P.C. against applicant on this ground that, her marriage was solemnized on 11.05.2011 with the applicant, after 2-4 days of marriage applicant and his parents were passing comments about dowry. The applicant and his parents threatened to the respondent, used filthy language and thrown out from the house, since she is residing at parental house. She has unable to maintain herself and applicant is earning Rs. 20,000/- per month from tailoring shop and provision stores, so, she is demanded Rs. 10,000/- per month as maintenance.

3. In his reply, the applicant denied all allegations made by the respondent and stated that respondent is well educated woman and she was running a beauty parlour with boutique and stitching work, from where she is earned Rs. 15,000/- per month. Applicant is working as a labour, he earns Rs. 3,000/- per month as well as he is also maintained his parents, and younger brother is also dependent upon him. Respondent is living in her paternal home with her own way, applicant several times went to bring the respondent but she didn't return with the applicant and she filed false report at Mahila Than, Durg the offence is registered against the applicant and his family members under Section 498-A of the IPC read with section 4 of dowry Act, wherein they have been acquitted by the learned Sessions Court, Bemetara on 19.12.2017. Therefore, respondent is not liable for any maintenance.
4. After hearing both the parties and after perusing the documents on record learned trial Court below allowed the application of respondent and awarded Rs. 5,000/- per month as maintenance. Hence, this revision.
5. Learned counsel for the applicant submits that the impugned order passed by the Family Court is bad in law, the Family Court has failed to consider that the applicant never misbehaved, assaulted and tortured to respondent (wife) and never demanded any dowry. In fact respondent herself wants to live separately at Durg city, without any sufficient reason. She made a false allegation against the applicant, therefore, she is not entitled for any maintenance. The Family Court has also failed to consider the provision of Section 125 (1)(a) of Code of Criminal Procedure, respondent herself is earning Rs. 15,000/- per month from beauty parlour and boutique. So, she is able to maintain herself. He also submits that Section 125(4) of Code of Criminal Procedure provided that if any person (wife) living separately without any sufficient cause, she is not liable to maintenance. Respondent herself has left the house of applicant on 27.05.2015 and she is residing separately without any sufficient reason. So, she is not entitled for any maintenance. Learned counsel for the applicant,

in support of his argument placed reliance in the matters of Shiv Kumar Yadav v. Smt. Santoshi Yadav reported in 2004 LawSuit (Chh) 12, Prabir Kumar Das Vs. Smt. Papiya Das in the decision of C.G. High Court in FAM No. 97/2014 judgment dated 29.01.2018 and in the matter of Beena Kumari v. Manoj Kumar reported in 2019 SCC OnLine Del 7237, judgment dated 21.02.2019.

6. Learned counsel for the respondent supported the impugned order and in support of his argument he placed reliance in the matter of Durga Singh Lodhi Vs. Prembai reported in 1990 SCC OnLine MP 1.
7. Heard the learned counsel for both the parties and perused the material available on record.
8. Learned trial Court appreciated evidence of both sides in para 8-11 and finds that respondent is living separately with sufficient reason and she is legally married wife of the applicant. So, she is entitled for maintenance and awarded Rs. 5,000/- per month as maintenance. These findings are based on proper appreciation of oral and documentary evidence. This Court do not find any illegality or irrationality in these findings.
9. Thus, there is no merit in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below.

**Sd/-
(Rajani Dubey)
JUDGE**