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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.411 of 2014

Order Reserved on : 6.2.2019

Order Passed on : 22.4.2019

Jagat Ram Manjhi, aged about 40 years, son of Pyarelal Manjhi, Shiksha Karmi Grade-II, posting place Village R.B. Chiefman, P.S. Sankara, Permanent R/o Village Keharpur, P.S. and Tahsil Basna, Civil and Revenue District Mahasamund, Chhattisgarh

---- Applicant

versus

Jyoti Bai Manjhi, aged about 32 years, wife of Jagat Ram Manjhi, at present R/o Village Badekule Khurd, D/o Rohidas Manjhi, R/o Pithora, P.S. and Tahsil Pithora, Civil and Revenue District Mahasamund, Chhattisgarh

--- Respondent

For Applicant	:	Ms. Pushplata Khalkho, Advocate on behalf of Shri Shikhar Sharma, Advocate
For Respondent	:	Shri Shivang Dubey, Advocate on behalf of Shri Shailendra Dubey, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. This revision has been preferred by the husband against the order dated 24.3.2014 passed by the Family Court, Mahasamund in M.J.C. No.158 of 2013, whereby the Family Court has granted monthly maintenance of Rs.3,000/- in favour of the wife.
2. Facts of the case, in brief, are that the Respondent/wife moved an application under Section 125 Cr.P.C. before the Family Court against the Applicant/husband on the ground that their marriage was solemnised in May, 2002. At that time, the husband was working as a Shiksha Karmi Grade-II. After the marriage, both resided together at the places of posting of the husband, i.e., at Villages Tilaidadar, Sankara, Malidih, Garhphuljhar. Out of their

wedlock, one son and one daughter took birth. It was further pleaded by the wife that the husband used to consume liquor. He used to beat her after consuming liquor. He had illicit relationship with many women. In the year 2012, at the time of *Ganesh Chaturthi*, he deliberately kept their children with him and expelled her out of his house. Since then she is residing separately. She called a social meeting on 25.8.2012 in which the husband was ordered to pay her maintenance, but he did not agree. Again on 24.3.2013, a social meeting took place in which also he did not agree to pay her maintenance. She is unable to maintain herself. The husband works as a Shiksha Karmi and gets monthly salary of Rs.10,000/- and he also owns 10 acres of agricultural land, but he is not maintaining her. He has also performed second marriage and is living with his second wife. In his reply, the Applicant/husband denied the allegations made against him by the Respondent/wife. It was pleaded by him that when he and the wife were residing at Village Garhpuljhar, at that time, the wife had developed an illicit relationship with one Nandkishore Mishra, son of the house owner and she fled along with Nandkishore Mishra to Orissa leaving her both children. He had called a social meeting in which the wife had admitted her illicit relationship with Nandkishore Mishra. After being inculcated to her, he had kept her back with him. Thereafter, again on 31.5.2012, when she was fleeing with Nandkishore Mishra, he again called a social meeting in which she again admitted her illicit relationship with Nandkishore Mishra. Then members of their community allowed him to perform second marriage and then only he performed the second marriage. It was further pleaded by him that earlier also the wife was leading adulterous life and presently also she is leading an adulterous life.

Therefore, she is not entitled to get any maintenance from him.

3. Before the Family Court, the Respondent/wife examined herself and also examined her father Rohidas in her support. The Applicant/husband examined himself and also examined witnesses Minketan, Kartikram, Janiram, Tengnu and Pyari. Some documentary evidence has also been led by the husband. After recording evidence and hearing the parties, the Family Court, vide the impugned order dated 24.3.2014, allowed the application of the wife and granted her monthly maintenance of Rs.3,000/-. Hence, this revision has been filed by the husband on the ground that the Respondent/wife is residing separately without any reasonable cause. She herself left the house of the Applicant/husband and presently she is leading an adulterous life. Therefore, she is not entitled to get any maintenance.
4. I have heard Learned Counsel appearing for the parties and perused the record with due care.
5. The Applicant/husband has deposed before the Family Court that when he and the Respondent/wife were residing together at Village Garhphuljhar, at that time, the wife had developed an illicit relationship with Nandkishore Mishra and on 30.5.2011 she fled along with Nandkishore Mishra. He came to know that she had stayed with Nandkishore Mishra in a lodge at Orissa. When he went there, till then they had left the lodge. He has further deposed that he had called a social meeting in which she had admitted her guilt. But, before the Family Court, during her examination, she denied having any illicit relationship with Nandkishore Mishra. The Applicant/husband, during his cross-

examination, has categorically admitted that he himself did not see the wife with any person. He has also admitted the fact that when the wife fled, at that time, neither he reported the matter in the police station nor did he take any action in this regard. None of the witnesses of the husband has deposed before the Court that they ever saw the Respondent/wife with Nandkishore Mishra. Two documents Ex.P1 and P2 relating to social meetings have been filed by the husband in which admission of guilt by the wife has been recorded. But, both the documents do not bear signature of either the husband or the wife and the persons whose signatures are put in those documents are not examined by the husband. In paragraph 7 of his examination-in-chief, the husband himself has stated that after the social meeting he had inculcated the wife and taken back with him. Even if it is admitted for the sake of argument that the wife had illicit relationship with Nandkishore Mishra, the husband had forgiven her for her past acts and taken her back with him. Thereafter, and presently, the wife is leading an adulterous life, no evidence in this regard has been led by the husband. Contrary to this, the husband himself has admitted that without taking a legal divorce from the Respondent/wife, he has performed second marriage with one woman namely Gadai, a resident of Village Padipali. Thus, this itself is a legal and valid ground for the Respondent/wife to reside separately from the Applicant/husband. Therefore, the Family Court has rightly arrived at the conclusion that the Respondent/wife has sufficient cause to reside separately.

6. With regard to the quantum of maintenance, it is admitted by the Applicant/husband that he is working as a Shiksha Karmi and is getting monthly salary of Rs.28,000/-. Considering the above and

further considering the other responsibilities of the husband, I find that the grant of monthly maintenance of Rs.3,000/- to the Respondent/wife is just and proper.

7. Consequently, the revision is dismissed.
8. 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