

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 349 of 2017**

- Smt. Khushboo Bhardwaj W/o Santosh Kumar Bhardwaj Aged About 23 Years C/o Jagmohan Kurre, Daihanpara, Koni. Police Station- Koni, District- Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- Santosh Kumar Bhardwaj S/o Tirithtram Bhardwaj Aged About 27 Years R/o Village- Nawapara, Chhal, S E C L Colony, Police Station- Chhal, District- Raigarh, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Sanjay Kumar Agrawal, Adv.
For Respondent	:	Mr. Pawan Kesharwani, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****25.09.2019**

1. Applicant (wife) filed this revision against the order dated 06.03.2017, passed by Additional Principal Judge, Family Court, Bilaspur (C.G.) in MJC No. 36/2016 whereby the learned trial Court dismissed the application filed under Section 125 Cr.P.C filed by the applicant for maintenance.

2. This is an admitted fact before the trial Court that applicant and respondent are legally married couple and their marriage was performed on 29.04.2015. Applicant (wife) filed an application under Section 125 Cr.P.C. on the ground that right from the beginning of her marriage, she was subjected to cruelty on account of demand of dowry by her in-laws including respondent (husband). In the meantime, when applicant became pregnant, she was not provided proper medical treatment, care & caution. On 23.03.2016, respondent(husband) assaulted the applicant and hit the abdomen of applicant by fist, due to which, her pregnancy was miscarried and started bleeding but no treatment was provided by the respondent, therefore the applicant requested her

parents for treatment, on which, her parents took her to doctor. After recovery, she wanted to go her matrimonial house but the respondent refused to keep the applicant. Applicant is unable to maintain herself and respondent is posted as Computer Operator in Jindal Power Plant, Raigarh and earns Rs. 15,000/- per month therefore, she filed application for maintenance.

3. In his reply filed before the Family Court, the husband, submitted that applicant/wife is living separately without any reasonable cause so, she is not entitled for maintenance.

4. Learned Family Court, after hearing counsel for both the parties and appreciating the evidence produced by them, by the impugned order dated 06.03.2017, rejected the application filed by the applicant (wife). Hence, this revision.

5. Learned counsel for the applicant submits that impugned order of the trial Court is contrary to the facts, law and circumstances of the case. He next submits that learned Family Court ought to have seen that due to assault by the non-applicant pregnancy of applicant was miscarried. Learned Family court has erred in holding that the applicant is living separately without any reasonable cause. He further submits that learned Family Court has failed to appreciate that the applicant is legally married wife of respondent and she has no source of income, therefore she is entitled to get maintenance.

6. Mr. Pawan Kesharwani, counsel appearing on behalf of respondent supported the impugned order passed by the trial Court and filed some documents before the Court.

7. Heard learned counsel for both the parties and perused the material on record including the impugned order.

8. On 05.10.2016, learned Family Court has allowed the interim maintenance to the applicant and directed the respondent to pay Rs. 4,000/- per month till the final disposal of the original case but respondent did not pay interim maintenance to the applicant (wife), due to that learned trial Court has closed the right of defence of the respondent. On the date of passing the impugned

order, both the parties were present and the trial Court, after considering the oral and documentary evidence, rejected the case of the applicant filed under Section 125 Cr.P.C.

9. During pendency of the case, respondent has filed some additional document in support of his case. One document shows that another family matter is pending before the trial Court and another document is his salary slip, which was obtained by respondent after passing of impugned order. Since this is a dispute of family matter as also maintenance, these documents should first be examined by the Family Court.

10. On due consideration, the impugned order dated 06.03.2017 is set-aside. The documents filed by the respondent are taken on record as an additional evidence. The matter is remitted back to the family Court. The Family court, after production of the said documents, shall proceed to hear the case and decide it afresh, in accordance with law. The Family Court shall grant time to both the parties to amend their pleadings and to produce any additional evidence regarding the alleged documents before the proceedings, if they so desire.

11. It is made clear here that this Court neither touched upon nor expressed any opinion on the merits of the case and only production of additional evidence has been permitted. The Family Court shall be free to form its own opinion afresh on all the question of facts and law arising for decision in the case.

12. Respondent is directed to pay entire maintenance in view of this Court's order dated 25.09.2017 till final decision of the Court below.

13. Both the parties, through their respective counsel, are directed to appear before the trial Court on **12.02.2020**.

14. Accordingly, the revision stands disposed of.

15. Copy of this order be sent to the Family Court concerned.

Sd/-
(Rajani Dubey)
JUDGE