

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on 18.7.2019****Order delivered on 27.8 .2019****CRR No. 222 of 2019**

1. Smt. Durga Yadav W/o Lalit Yadav Aged About 24 Years
2. Minor Ku. Yashika through natural guardian M/o Durga Yadav Aged About 2 Years D/o Lalit Yadav,

Both are permanent R/o Rewadih, Rajnandgaon, Presently Residing At Ward No. 8, Chhuikhadan, District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicants**Versus**

- Lalit Yadav S/o Rohit Yadav Aged About 38 Years R/o Ward No. 21, Rewadih, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

----Respondent

For Applicants	: Shri Hemant Kesharwani, Advocate
For Respondent	: Shri S.S. Baghel, Advocate

Hon'ble Smt. Justice Rajani Dubey**CAV Order**

1. Heard on admission.
2. The present revision arises out of the order dated 14.12.2018 passed in Misc. Criminal Case No. 28/2018 by the Judge, Link Family Court, Khairagarh, District Rajnandgaon (CG), whereby the application filed by applicants has been partly allowed.
3. Facts of the case are that marriage between applicant No.1 and the respondent was solemnized on 28.4.2015 and out of their wedlock applicant No.2 was born. After some time of the

marriage, the respondent started torturing applicant No.1 physically and mentally on which she lodged a report under Section 498-A of the IPC and he ousted her from the house. Since then applicant No.1 along with her daughter is residing with her parents. She filed an application under Section 125 Cr.P.C. for grant of maintenance demanding Rs.20,000/-.

4. In reply, the respondent denied all the allegations and stated that applicant No.1 is living separately on her own will. Having considered the evidence and material on record, the learned Family Court has dismissed the application filed on behalf of applicant No.1 (wife) and allowed the application of applicant No.2 (daughter) and granted maintenance of Rs.1000/- per month to the daughter, respondent No.2. Hence, this revision.
5. Learned counsel for the applicants submits that the order of learned Family Court is bad in law and contrary to the material on record. The respondent/non-applicant has committed cruelty against applicant No.1. He used to demand dowry and on account of non-fulfillment of demand of dowry, he used to assault applicant No.1 and ousted her from house. The Family Court has not considered this aspect that the applicant has sufficient reason to reside separately from the respondent. It is not in dispute that applicant No.1 is wife and applicant No.2 is daughter of the respondent. Therefore, it is the duty of the respondent to maintain his wife and children. The respondent has agricultural land and other source of income. The amount

of Rs.1000/- is meager which is not sufficient looking to the current price index. Due to denial of maintenance, applicant No.1 is facing hardship in surviving, therefore, the order passed by the Family Court is liable to be set aside and the applicants may be granted sufficient maintenance.

6. On the other hand, learned counsel for the respondent supported the impugned order and submitted that the applicant No.1 is living separately without proper reason, therefore, she is not entitled for any amount of maintenance.
7. I have heard learned counsel for the parties and perused the record.
8. Perusal of the evidence shows that applicant No.1 has stated that she is not willing to go with the respondent(husband). The Family Court in para 12, 13 and 14 has discussed in details and arrived at a conclusion that applicant No.1 is residing separately from the respondent without sufficient reason. It appears that there are small domestic disputes between the parties and this cannot be regarded as a reason for a woman to refuse to live with her husband.
9. Considering the facts and circumstance of the case, I am of the opinion that the Family Court has not committed any error in rejecting the application of applicant No.1 for grant of maintenance on the above ground. As regards claim of applicant No.2 is concerned, Rs.1000/- has been granted which is meager amount to maintain and take care of the child, therefore, the

amount of maintenance granted to applicant No.2(daughter) is required to be enhanced from Rs.1000/- to Rs.5000/-. The respondent (father) has pleaded that he is a labourer. He is living in a joint family and having some agricultural land on his father's name. Thus, he has sufficient source to pay the maintenance amount to his minor daughter. Accordingly, it is ordered that the respondent now shall pay to applicant No.2- daughter, Rs.5000/- per month from the date of passing of this order.

10. Thus, the revision is partly allowed. Sd/

(Rajani Dubey)
JUDGE