

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1151 of 2016**

1. Uma Sahu W/o Rupesh Kumar Sahu, aged about 25 years,
 2. Kumari Laxmi Sahu D/o Rupesh Kumar Sahu, aged about 5 ½ years,
 3. Kumari Sweta Sahu, D/o Rupesh Kumar Sahu, aged about 3 ½ years,
- Minor Applicants 2 & 3 are represented through Applicant No. 1 (mother)
R/o Village Potiyadih, Tahsil & district Dhamtari (C.G.).

---- Applicants**Versus**

Rupesh Kumar S/o Late Rambharosa Sahu, aged about 32 years R/o Village
Jhiriya Nayapara, Tahsil & District Dhamtari (C.G.).

---- Respondent

For Applicants	:	Mr. Ravish Verma, Advocate
For Respondents	:	Ms. Laxmin Kashyap, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****26/03/2019**

1. With the consent of both the parties, the matter is heard finally.
2. This revision has been preferred against order dated 27/10/2016 passed in Miscellaneous Criminal Case No. 90/2016 by the Family Court, Dhamtari, whereby the learned Family Court has rejected the application submitted under Section 125 of the Cr.P.C by the Applicants.
3. There is no dispute on the point that Applicant No. 1 is legally wedded wife of the Respondent and their marriage was solemnized on 28/05/2010. There is also no dispute on the point that out of their

wedlock Applicant Nos. 2 & 3 got borne and presently all the Applicants are residing separately.

4. Facts of the case are that an application under Section 125 of the Cr.P.C was filed by the Applicants before the Family Court with the averments that first daughter of Applicant No. 1 got birth premature and she was weak, therefore, she had gone to her paternal house for her care. After two months, when she returned to the house of her husband i.e. the Respondent, the Respondent and his family members started misbehaving with her and made allegations against her character. It was pleaded by her that the Respondent got partition from his brother and started to reside with the Applicant, however, he always used to give ill treatment to her. He also used to beat her for bringing money from her paternal house. On 02/01/2016, a social meeting was conducted, where a compromise took place between them and the Respondent took the Applicants with him. Thereafter, he again started to give ill treatment to her and expelled her along with her younger daughter. Later on, Applicant No. 1 went to bring his elder daughter, but the Respondent refused to give her elder daughter. On 02/04/2016, she made a complaint. Thereafter, another compromise took place and the Respondent bring her with him. After some time, the Respondent again started to give ill treatment to the Applicants. Finally on 29/05/2016, the Applicants were expelled from the house after beaten and since then, Applicant No. 1 along with her daughters is residing separately in her paternal house. It was further pleaded by her that she is unable to maintain herself as well as her children. The Respondent owned 8 acres of agricultural land and earns Rs. 50000/-

monthly.

5. In his reply, the Respondent denied all the allegations made against him. It was pleaded by him that he never gave ill treatment to the Applicants. Applicant No. 1 did not want to reside in joint family with him. She wanted to get partition from his family members and she did so. It was further pleaded by him that in the social meeting, Applicant No. 1 accepted her mistake. On 29/05/2016, in absence of the Respondent, Applicant No. 1 herself went to her paternal house along with her children and made a false report regarding demand of dowry. It was further pleaded by him that since Applicant No. 1 along with her daughters is residing separately without any reasonable cause, therefore, the Applicants are not entitled to get any maintenance.
6. Before the Family Court, Applicant No. 1 has examined herself as Applicant Witness No. 1 and also examined her father Bharatlal Sahu as Applicant Witness No. 2. The Respondent examined himself as Non-Applicant Witness No. 1 and also examined Toman Lal and Rajeshwar Rao as Non-Applicant Witness Nos. 2 & 3 respectively. Applicant No. 1 submitted some documents Ex.P-1 and Ex.P-2 in her support.
7. After recording evidence of both the parties and hearing their submission, the Family Court has rejected the application on the ground that Applicant No. 1 is residing separately without any reasonable cause and also on the ground that the Respondent is ready and willing to take all the Applicants with him.

8. I have heard both the counsel for the parties and perused the record.
9. Both the Respondent and Applicant No. 1 have deposed as per their pleading before the Family Court.
10. In her cross-examination in para 14, Applicant No. 1 admitted the fact that on 29/05/2016, she along with her elder daughter, in absence of the Respondent, had gone to her paternal house. She also admitted that since then she is residing separately at her paternal house on her own will. She also admitted that thereafter the Respondent filed an application under Section 97 of the Cr.P.C before the SDM and Applicant No. 1 has deposed before the SDM that she is residing separately on her own will. The above statement of Applicant No. 1 clearly shows that presently she is residing separately on her own will without any reasonable cause. Therefore, the Family Court has rightly rejected the application under Section 125 of the Cr.P.C in respect of her.
11. With regard to Applicants 2 & 3, there is no dispute that both are legitimate daughters of the Respondent and presently residing with their mother i.e. Applicant No. 1. They are aged about 6 years and 4 years. Being a father, it is a responsibility of the Respondent to maintain their children. The Family Court has rejected the claim of Applicant Nos. 2 & 3 without assigning any reason. Since, Applicant Nos. 2 & 3 are children of the Respondent and presently residing with their mother, therefore, in my considered view, they are entitled to get maintenance from the Respondent.

12. Considering the social status of both the parties as well as financial condition of the Respondent, it is ordered that the Respondent shall pay monthly maintenance of Rs. 2000/- and Rs. 2000/- to Applicant Nos. 2 & 3 from today.
13. Consequently, the revision is partly allowed to the extent indicated above.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul