

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 174 of 2018**

1. Smt. Rakhi Singh W/o Manoj Singh Aged About 27 Years
2. Minor Ku. Rajnandani Singh D/o Manoj Singh Aged About 3 Years and 6 months
3. Minor Panchi Singh S/o Manoj Singh Aged About 2 Years

Applicant No. 2 & 3 are Minors Through The Natural Guardian (Mother) Namely Rakhi Singh, R/o Village Bagicha, Tahsil Bagicha, District Jashpur Chhattisgarh

---- Applicants**Versus**

- Manoj Singh S/o Gopal Singh Aged About 33 Years R/o Village Sirango, P. S. Pithoriya, Block And Tahsil Ranchi Jharkhand, District : Ranchi, Jharkhand

----Respondent

For Applicants	: Shri V.K. Pandey, Advocate
For Respondent	: Shri J.K. Saxena, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****17.7.2019**

1. Heard on admission.
2. This revision is directed against the order dated 10.1.2018 passed by the Principle Judge, Family Court, District Jashpur(CG) in Misc. Cr. Case No. 67/2017, wherein the Family Court had rejected the application filed under Section 125 of the Cr.P.C.
3. Facts of the case in brief are that marriage between applicant No.1 and the respondent was solemnized on 18.4.2012 and respondents 2 and 3 are their children. Presently, applicant No.1 along with respondents 2 and 3 (her children) is residing

separately. She filed an application before the Family Court under Section 125 Cr.P.C. stating that after some time of the marriage, the respondent (husband) and his family members started harassing her on account of demand of dowry. They tortured her physically and mentally and stopped giving food, due to which she become weak. Applicant No.2 was born in the year 2013. Thereafter, on 22.12.2014, the respondent his father left her near Bagicha Bus Stand saying that she may bring four wheeler and cash of Rs.4 lakhs from her parents. She is living in her parental house and Applicant No.3 has born there. Applicant No.1 has stated that she has no source of income and, the respondent is having agricultural land from which he earns Rs.2 lakhs per year and he is doing the work of transport, he has a brick kiln, therefore, she and her children may be granted maintenance from the respondent. In response, the respondent denied the allegations and pleaded that the applicant is living separately without proper reason and she deserted him. It was also pleaded that the business of brick kiln has been closed and he has no source of income. The learned Family Court after recording the evidence of both the parties, rejected the application of the applicants. Hence, this revision.

4. Learned counsel for the applicants submits that the impugned order passed by the learned Family Court is contrary to the facts of the case and the findings are perverse. This is not in dispute that applicant No.1 is legally wedded wife of the respondent and applicant Nos. 2 and 3 are his legitimate children, therefore, the

respondent is legally and morally bound to maintain them. The applicant has proved this fact that the respondent has harassed her on account demand of dowry and due to this reason, she is living separately, but the learned Family Court has misinterpreted the pleadings and wrongly come to the conclusion that applicant No.1 is living separately without just and cogent reason, therefore, the finding is illegal and perverse and the order is liable to be set aside.

5. On the other hand, learned counsel for the respondent supported the impugned order and submits that there is no illegality or infirmity in the order passed by the Family Court.
6. I have heard learned counsel for the parties and perused the impugned order passed by the Family Court and the material on record.
7. There is no dispute that marriage between applicant No.1 and the respondent was solemnized on 18.4.2012 and out of their wedlock respondents 2 and 3 have born. In her court statement, applicant No.1 has categorically stated that the respondent did not want to keep her and he used to beat her on account of demand of dowry. This statement of applicant No.1 has not been rebutted during her cross-examination. Witness No.2 of the applicant namely- Santkumar Singh has supported the statement of the applicant. The respondent has admitted in his cross-examination that a criminal case is pending before the Judicial

Magistrate First Class against the respondent and his family members for dowry harassment.

8. From the evidence, it is established that on account of harassment for demand of dowry by the respondent, the applicant has refused to reside with him, therefore, it cannot be said that the applicant is residing separately without proper reason. Thus, the finding in this regard is not correct. There is valid reason for the applicant to live separately and she is unable to maintain herself and her 2 children, therefore, she is entitled to get maintenance. With regard to maintenance amount, it was pleaded that the respondent is having agricultural land. It is also admitted by the respondent that he purchased a Truck through bank finance and the Bank authorities have seized the Truck on account of non-payment of installments, but no document has been produced to this effect.
9. Considering the facts and circumstances of the case and looking to the income of the respondent and social status of the both the parties, it is ordered that the respondent shall pay maintenance of Rs.10,000/- to applicant No.1-wife, Rs.5,000/- to applicant No.2-daughter, and Rs.5,000/- to respondent No.3-son, total Rs.20,000/- per month from the date of passing of this order.
10. Thus, the revision is partly allowed to the above extent.

Sd/

(Rajani Dubey)
JUDGE