

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 253 of 2019**

- Adil Ansari S/o Ajiz Abdul Wahi (Correct Name Is Ajiz Abdul Wahid) Aged About 30 Years R/o Rajeev Colony, Near Masjid, Gram Panchayat, Devdara, P.S. & Tehsil- Mandala, District Mandala (M.P.), Presently Residing At Flat No. 503, Marakesh Cafeteria Building, Alshubai Fatima Hyper Market, Rola, Sharjaha (U.A.E.), Office - P.L. Seetra, Engineer, Dubai Terminal Airport, Terminal III, Dubai (U.A.E.).

---- Applicant**Versus**

1. Smt. Darakhshwan Anjum W/o Shri Adil Ansari Aged About 28 Years R/o Sheikhan Meshan, Behind Taiyyab Masjid, Mova, Aman Nagar, Raipur, Chhattisgarh.
2. Ku. Haya Anjum Aged About 1 Year 4 Months, Through Natural Gaurdian Smt. Darakhashwan Anjum, R/o Sheikhan Meshan, Behind Taiyyab Masjid, Mova, Aman Nagar, Raipur, Chhattisgarh.

---- Respondents

For Applicant	:	Mr. Rakesh Pandey, Adv.
For Respondents	:	Mr. Vishnu Muni, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****03/10/2019**

1. Heard on admission.
2. The present revision has been filed by the applicant against the order dated 11.01.2019 in Criminal case No. 438/16 passed by the learned 2nd Additional Principal Judge Family Court, Raipur, C.G. whereby the learned trial Court has allowed the maintenance application filed by respondents under Section 125 of Cr.P.C. and awarded Rs. 10,000/- per month in favour of Respondent No. 1 and Rs. 5,000/- per month in favour of Respondent No. 2 total 15,000/- per month as maintenance.
3. Brief facts of the case are that, marriage between applicant and respondent No. 1 was solemnized on 27.01.2014 according to

Mohammedan rite and rituals and respondent No. 2 was born out of their wedlock. Soon after the marriage the respondent No. 1 was subjected to cruelty by applicant and his parents tortured her physically as well as mentally. Respondent No. 1 went to Sharjah along with her husband and after 6 months she came back and thereafter, the applicant left her in her matrimonial house. Respondent No. 1 lodged FIR against the applicant and his parents. She has further stated that she has no means of income therefore unable to maintain her daughter and herself whereas, applicant is working as Engineer in Arab Country and getting Rs. 1,90,000/- as per Indian Currency. Thus, she claimed Rs. 75,000/- per month maintenance from the applicant.

4. In his reply, the applicant denied all allegations made by the respondent and stated that at present he is unemployed and searching for his service in Arab Country and for survival he is not working as Engineer. He further submits that the respondent No. 1 is a Physiotherapist and she is able to maintain herself. She left matrimonial house without any reason, so, she is not entitled for any maintenance.
5. The learned Family Court after appreciating both parties oral and documentary evidence, partly allowed the application of respondent (wife) and granted Rs. 10,000/- per month to the respondent No. 1 (wife) as maintenance whereby Rs. 5,000/- per month to the respondent No. 2 (daughter) as maintenance and Rs. 500/- as litigation fee. Hence, this revision.
6. Learned counsel for the applicant submits that the impugned order passed by the Family Court is illegal and contrary to the facts and circumstances of the case, there is no documentary evidence regarding income of the applicant and relying the oral evidence the family Court has assessed the income and granted maintenance of Rs. 15,000/-. He next submits that the respondent No. 1 has left the matrimonial house without any sufficient reason, and the respondent No. 1 has not proved the income of applicant and also no documentary evidence has been produced by her in this regard, therefore, she is not entitled for maintenance. Thereafter, he submits that the respondent No. 1 is

working as physiotherapist and she is earning sufficient amount from his profession, she is not dependent upon the applicant, therefore, she is not entitled for maintenance. The applicant is ready to keep the respondents with him so application is liable to be dismissed.

7. Learned counsel for the respondents supported the impugned order.
8. Heard the learned counsels for both the parties and perused the material available on record. This is an admitted fact before Trial Court that respondent No. 1 is a legally married wife of the applicant and respondent No. 2 is their daughter.
9. Before Family Court respondent No. 1 has examined herself as PW-1. Applicant filed his reply before learned trial Court and did not appear before trial Court for evidence. The trial Court granted sufficient time for evidence and on 04.01.2019 the learned trial Court proceeded ex-parte against the applicant. On 08.01.2019 applicant did not appear for argument and on 11.01.2019 the learned trial Court passed the impugned order and allowed the application of respondents. The learned trial Court appreciating the respondents oral evidence which is unrebutted, allowed the application of respondents and granted Rs. 15,000/- per month as maintenance. Applicant did not appear before trial Court and did not cross-examine AW-1 so finding of learned trial Court based on unrebutted testimony of Respondent No. 1. The order passed by the Family Court does not suffer any irregularity or illegality and the same is liable to be maintained.
10. Thus, there is no merit in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below, at the motion stage itself.

Sd/-
(Rajani Dubey)
JUDGE