

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 216 of 2018**

- Rajesh Chouhan S/o Shri Ramnarayan Singh Chouhan Aged About 46 Years R/o I T I Bhopal, Draughtsman Mechanical Training Officer, Model I. T. I. Govindpura Bhopal M. P., District : Bhopal, Madhya Pradesh

---- Applicant**Versus**

1. Smt. Shweta Chouhan W/o Rajesh Chauhan Aged About 35 Years
 2. Ku. Astha D/o Shri Rajesh Chouhan Aged About 15 Years
 3. Chi. Aachintya S/o Shri Rajesh Chouhan Aged About 13 Years
- Minors (Respondent No. 2 and 3) Through Their Natural Guardian Respondent No.1 i.e. Mother Smt. Shweta Chouhan
- All are R/o C/o B. S. Thakur, 52 Sai Darshan Colony, Zora Krishak Nagar, Raipur District Raipur Chhattisgarh

---- Respondents

For Applicant	: Ms. Laxmin Kashyap, Advocate on behalf of Shri P.K. Patel, Advocate
For Respondents	: Shri Sunil Sahu, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****08.08.2019**

1. This revision is preferred against the order dated 3.2.2018 passed by the First Additional Principal Judge, Family Court, Raipur, District Raipur(CG) in MJC No.45/2016, wherein the said Court has partly allowed the application filed by the respondents/applicants under Section 125 Cr.P.C. and granted maintenance of Rs.8,000/- to respondent No.1-wife, Rs.10,000/- to respondent No.2- daughter and Rs.8,000/- to respondent No.3-son, total Rs.26,000/- per month.

2. This is an undisputed fact that respondent No.1 and the applicant have solemnized their marriage on 14.12.1998 according to Hindu customs and rituals and out of their wedlock, one daughter(respondent No.2) and one son (respondent No.3) were born.
3. Before the Family Court the respondents (wife and children) filed an application under Section 125 Cr.P.C. on the ground that the applicant treated respondent No.1/wife with cruelty and suspected her character. He was assaulting respondent No.1 on small issues and once he fractured her finger and expelled her from house. Respondent No.1 is unable to maintain herself and applicant/husband is posted as Training Officer in I.T.I., Bhopal and his salary is Rs.50,000/- per month, therefore, the respondents demanded Rs.30,000/- as maintenance per month from the applicant.
4. In reply, the applicant denied all the allegations and stated that he never tortured his wife/respondent No.1. He stated that the respondent No.1/wife has filed an application for decree of divorce before the Family Court, Bhopal and he herself has posted as Teacher in N.H. Goyal School, Raipur and getting Rs.22,500/- per month and she is able to maintain herself and the children.
5. The learned Family Court after hearing both the parties and after perusal of oral and documentary evidence on record, allowed the application filed by the respondents/applicants and awarded maintenance as mentioned in paragraph 1 of this order. Hence,

the applicant has filed this revision for setting aside the order of maintenance.

6. Learned counsel for the applicant submits that the order passed by the learned Family Court is illegal, erroneous and contrary to law as well as facts available on record. The Family Court has passed the order without properly appreciating the evidence and material on record. Respondent No.1 has failed to prove that she is residing separately along with her children from the applicant on sufficient reason, therefore, as per proviso to Section 125(4) Cr.P.C., she is not entitled for any maintenance. Respondent No.1 is earning member, therefore, maintenance of Rs.26,000/- per month is on higher side and not according to law and the same is liable to be set aside. She further submits that in MJC No. 361/2015, the parties have entered into compromise and the respondent No.1 was ready to reside with the applicant, but despite this she is not residing with the applicant.
7. On the other hand, learned counsel for the respondents supported the impugned order and submits that the order passed by the Family Court is just and proper and requires no interference by this Court.
8. I have heard learned counsel for the parties and perused the impugned order and the material on record.
9. Admittedly, the respondents are wife and children of the applicant. Before the Family Court, respondent No.1 and her father -Balwant Singh(AW2) have categorically stated about the torture given by the applicant. The Family Court has also

observed that the applicant has fractured the finger of respondent No.1 which has been crooked and still not straightened. The Family Court after appreciation of the entire evidence found that respondent No.1 has sufficient reason to live separately from the applicant. The applicant has admitted in his cross examination that he is posted as government servant and his net salary is Rs.60,000/- per month. Respondent No.1 has also admitted that she is a Teacher in private School and getting salary of Rs. 17,000/- per month. Considering the status and necessity of the respondents as also that respondents 2 and 3 are school going children and requires more money for their fees etc., the Family Court has granted maintenance of Rs.8,000/- in favour of respondent No.1-wife, Rs.10,000/- in favour of respondent No.2-daughter and Rs.8,000/- in favour of respondent No.3- son, total Rs.26,000/- per month, which cannot be said to be disproportionate or unreasonable looking to the present price index and the regular income of the applicant, who is husband and father of the respondents. The order passed by the Family Court is just and proper and requires no interference by this Court.

10. Accordingly, the revision being devoid of merits is liable to be and is hereby dismissed.
11. Consequently, I.A.No.1/2018 for grant of stay is also dismissed.

Sd/

(Rajani Dubey)
JUDGE