

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 317 of 2018**

Rajeev Khandekar S/o Shri Amrit Khandekar, Aged 40 years R/o Through Arun Kumar Sarankar, House No. 855, Housing Board Kohka Bhilai, Police Station Supela, Tahsil & District Durg (C.G.).

----Applicant**Versus**

1. Smt. Pushpa W/o Shri Rajeev Khandekar, Aged about 36 years,
2. Mayank Khandekar S/o Shri Rajeev Khandekar, Aged about 06 years, Minor Through his mother Smt. Pushpa (Respondent No.1) W/o Shri Rajeev Khandekar, Aged about 36 years,
Both R/o Through Dr. D.K. Verma, Jawahar Nagar, Behind Govt. College, Block No. 10, Behind Quarter No.9, Supela Bhilai, Tahsil & District- Durg (C.G.)

---- Respondents

For Applicant	:	Mr. Rishi Rahul Soni, Advocate
For Respondents	:	Mr. Rudranath Mukherjee, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****02/05/2019**

1. With the consent of both the parties, the matter is heard finally.
2. This revision has been preferred against the order dated 09/01/2018 passed in MJC No. 598/2016 by the Principal Judge, Family Court, Durg, Whereby the learned Family Court while allowing the application under Section 125 of the Cr.P.C has granted monthly maintenance of Rs. 2500/- in favour of Respondent No. 1 and Rs. 500/- in favour of Respondent No.2.
3. There is no dispute on the point that Respondent No. 1 is legally wedded wife of the Applicant and out of their wedlock Respondent No. 2 got birth. Presently both the Respondents are residing separately.
4. Before the Family Court, Respondent No. 1 filed an application under

Section 125 of the Cr.P.C with the averments that she was in love relation with the Applicant since 2011, as a result of which they resided together. At that time, she became pregnant. After birth of Respondent No. 2, the Applicant performed marriage with Respondent No. 1. It was further pleaded that after marriage, the behavior of the Applicant was good for about 15 days. Thereafter, he started to assault Respondent No. 1 on small issues. On 20/12/2013, the Applicant expelled her from his house and since then the Respondents are residing separately. It was further pleaded that they are unable to maintain themselves and the Applicant has sufficient means to maintain them.

5. In his reply, the Applicant denied all the allegations made against him. It was pleaded by him that Respondent No. 1 is residing separately without any reasonable cause on her own will, therefore, she is not entitled to get maintenance.
6. Both the parties have adduced their evidence before the Family Court. After recording their evidence and hearing their submissions, the Family Court has granted maintenance as mentioned in the first paragraph of this order. Thus, this revision.
7. Counsel for the Applicant submits that there is sufficient evidence available on record, which shows that Respondent No. 1 is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance, inspite of that the learned Family Court has wrongly granted maintenance in favour of the Respondents.
8. Counsel appearing on behalf of the Respondent supported the impugned order.

9. I have heard counsel for the parties and perused the record,
10. In her court statement, Respondent No. 1 deposed that after marriage, she resided with the Applicant only for 15 days. Thereafter, the Applicant used to quarrel with her on the matter that she did not prepare good meal, then, she went to her paternal house. During her cross-examination in para 5, she has categorically stated that she does not know the reason that why the Applicant used to quarrel with her. She also admitted that the Applicant came many times to bring her back, but she refused to go with him. She also admitted that during counseling proceeding in Mahila Tahana, the Applicant was ready to keep her with him.
11. From the above statement of Respondent No.1, it seems that there was no serious issue between them and only on the ground of not preparing good food, the Applicant used to quarrel with her and due to this reason, Respondent No. 1 left the house of the Applicant. From the above admission of the Respondent No.1/Wife, it is also clear that the Applicant came many times to bring back Respondent No.1, but she always refused to go with him. There is no sufficient ground or reason shown by Respondent No. 1 to not go with the Applicant. On the contrary, the Applicant made several attempts to bring her back and he wanted to keep her with him, but Respondent No. 1 always refused to go with him. Therefore, the finding of the Family Court that Respondent No. 1 is residing separately with sufficient cause is not in accordance with law. Since, Respondent No. 1 is residing separately without any reasonable cause, therefore, in my view she is not entitled to get any maintenance.
12. Thus, the order of the Family Court with regard to Respondent No. 1 is perverse and the same is set-aside. The order of the Family Court with

regard to Respondent No. 2 is affirmed.

13. Accordingly, the revision is partly allowed.

**Sd/-
(Arvind Singh Chandel)
Judge**

Rahul