

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 342 of 2019**

- Santosh Janghel S/o Late Anand Janghel Aged About 32 Years R/o Near Santoshi Mandir, Buddh Vihar, Chhota Ashok Nagar, Gudiyari, P.S. Gudiyari, District- Raipur, Chhattisgarh.

---- Applicant**Versus**

- Smt. Uma Janghel W/o Santosh Janghel Aged About 31 Years R/o Station Road, Lodhipara, P.S. Gudiyari, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Syed Imtiaz Ali, Adv.
For Respondent	: Mr. Akash Kumar Kundu, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****05/09/2019**

1. Heard on admission.
2. The present revision has been filed by the applicant against the order dated 20.02.2019 in Criminal MJC No. 56/2017 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 respondent under Section 125 of Cr.P.C. and awarded Rs. 4,000/- per month as maintenance.
3. Brief facts of the case are that, respondent (wife) filed an application under Section 125 Cr.P.C. against applicant, before the learned Family Court, Raipur on this ground that, between the respondent and the applicant marriage was solemnized on 12.05.2006 and after the marriage she had been treated with cruelty by the applicant and his family members, and she was ousted from her matrimonial home. After that applicant performed second marriage, the respondent (wife) is unable to maintain herself. So, she is demanding Rs. 20,000/- per month as

maintenance.

4. In his reply, the applicant denied all allegations made by the respondent and stated that on 27.05.2006 a meeting was held between the community, and the respondent demanded divorce from applicant and since 27.05.2006 she was residing separately. After 5 years applicant performed second marriage, respondent left his home with her own will and residing separately, so, she is not entitled for any maintenance.
5. The learned Family Court after appreciating both parties evidence and documents allowed application of respondent (wife) and awarded Rs. 4,000/- per month as maintenance. Hence, this revision.
6. Learned counsel for the applicant submits that the impugned order passed by the Family Court is bad on facts and as well as on law, the order of learned Family Court is based on conjecture and surmises. He further submits that the learned Trial Court has not properly marshaling the evidences of the parties, the respondent has not produced any documents regarding source of income of the applicant. He next submits that the maintenance amount awarded by the Family Court is very high whereas the respondent has left the applicant without any sufficient reason and residing with her parents. She is residing separately for last 10 years with her own will, so, the order dated 20.02.2019 is liable to be set aside.
7. Learned counsel for the respondent supported the impugned order.
8. Heard the learned counsels for both the parties and perused the material available on record.
9. Before Family Court respondent has examined herself as PW-1 and one Haidar Raja (PW-2) and on the other side applicant examined himself as NAW-1, applicant's mother Rambai Janghel (NAW-2) and applicant's second wife Indu Janghel (NAW-3).
10. This is an admitted fact before Trial Court that respondent is a legally married wife of the applicant and without getting legally

divorce from any Court applicant performed second marriage with another woman (NAW-3). The learned Trial Court in impugned order from para 7-17 has appreciating both parties oral and documentary evidence and finds that respondent is a legally married wife of applicant and applicant performed second marriage without divorce. So, she is entitled for maintenance. These findings are based on proper appreciation of oral and documentary evidence. This Court do not find any illegality or irrationality in these findings.

11. 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**