

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 328 of 2018**

1. Meena Bai W/o Mukutram Choudhary, aged about 24 years,
2. Ku. Sandhya D/o Mukutram, aged about 3 ½ years

Through Natural Guardian mother Meena Bai W/o Mukutram Choudhari
R/o Village Tendumuda, Police Gaurela, Distt. Bilaspur (C.G.)

---- Applicants**Versus**

Mukutram Choudhary S/o Besahan, aged about 26 years, R/o Kotkharra, Police
Station Gaurela, Distt. Bilaspur (C.G.)

---- Respondent

For Applicant	:	Mr. Yogendra Chaturvedi, Advocate
For Respondent	:	Mr. Ravindra Sharma, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**30/01/2019**

1. With the consent of both the parties, the matter is heard finally.
2. This revision has been filed against order dated 16/11/2017 passed by the Additional Sessions Judge, Pendra in Criminal Revision No. 39/2015, whereby the revision filed by the Respondent has been partly allowed and order dated 08/05/2015 passed by the Judicial Magistrate First Class, Pendra in Miscellaneous Criminal Case No. 242/2014 has been modified.
3. Admittedly, Applicant No. 1 is the legally wedded wife of the

Respondent and out of their wedlock, Applicant No. 2 has borne. The Applicants filed an application under Section 125 Cr.P.C before the learned JMFC on the ground that after marriage, the Respondent/Husband used to torture her for non fulfillment of demand of dowry. Once, he poured kerosene oil on her with an intention to kill her, but somehow she escaped. It was also pleaded that When the Respondent came to her village then a village meeting was called, thereafter, the Respondent took her with him with the assurance that he will keep her well. Thereafter, he again beaten her and expelled her from his house. Since then, she is residing separately. She is unable to maintain herself as well as her daughter i.e. Applicant No. 2. The Respondent has sufficient means to maintain them.

4. In his reply, the Respondent denied all the allegations made against him. It was pleaded by him that Applicant No. 1 has gone with one Guddu Choudhary and is residing with him. Therefore, she is not entitled to get maintenance.
5. After recording evidence of both the parties and hearing their submission, the learned JMFC vide order dated 08/05/2015 allowed the application under Section 125 Cr.P.C and granted maintenance of Rs. 3000/- in favour of Applicant No. 1 and Rs. 2000/- in favour of Applicant No. 2. Against the said order, a revision was preferred by the Respondent/Husband. The learned Sessions Judge, vide impugned order partly set-aside the order with regard to Applicant No. 1 on the ground that Applicant No. 1 is residing separately without any reasonable cause, therefore, she is not entitled to get any

maintenance. Thus, this revision has been filed by the Applicants.

6. I have heard counsel for the parties and perused the record.
7. In his pleading as well as in his statement, the Respondent made an allegation against Applicant No. 1/Wife that she is having illicit relation with one Guddu Choudhary and the Respondent has seen her with Guddu in an objectionable situation. Thereafter, when a social meeting was conducted then Applicant No. 1/Wife has stated that she wants to reside with that Guddu and went with him. Applicant No. 1/Wife has categorically denied this in her cross-examination. Her witnesses namely Anand Ram Choubey and Mangal have also denied the suggestion made by the Respondent in this regard. Though, the Respondent Witness No. 2 Milan Singh said that the Respondent had told him that he has caught his wife with Guddu and a meeting was conducted which was convened to Applicant No. 1 /Wife, she told that she will reside with Guddu. A document in this regard was executed, but in cross-examination in para 6, this witness has categorically stated that there was no meeting conducted in this regard and only on the saying of the Respondent, this document was prepared. From the above, it is clear that the Respondent/Husband made false and fabricated allegations against her wife, therefore, Applicant No. 1 has sufficient cause to reside separately from the Respondent. In these circumstances, the finding of the learned Additional Sessions is not in accordance with evidence adduced by the parties and not in accordance with law.
8. Consequently, the revision is allowed and the impugned order dated

16/11/2017 passed by the Additional Sessions Judge is set-aside. The order dated 08/05/2015 passed by the JMFC shall remain effective.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul