

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 388 of 2019**

- Laxminarayan Kaushik S/o Manrakhan Lal Kaushik aged about 24 years Resident of Village Parsada Police Station- Chakarbhata- District Bilaspur (C.G.)

---- Petitioner

Versus

1. Smt. Kalawati W/o Laxminarayan Kaushik, aged about 24 years.
2. Amit Kumar Kaushik S/o Laxminanrayan Kaushik aged about 03 years (the non-applicant No. 2 is minor his natural guardian is mother the non-applicant No. 1)

Above both the non-applicants are resident of village- Kaya, Police Station- Chakarbhata, District Bilaspur (C.G.)

---- Respondents

For Applicant	:	Mr. B.L. Sahu, Adv.
For Respondents	:	None.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****23.07.2019**

1. This revision has been filed against the order dated 26.02.2019 passed by learned Additional Principal Judge, Family Court, Bilaspur District- Bilaspur (C.G.) in MJC No. 427/2016 whereby the learned Family Court allowed the application under Section 125 of the Cr.P.C. and directed the applicant/husband to pay maintenance of Rs. 3,500/- per month (Rs. 2,000/- to respondent No.-1 & Rs. 1,500/- to respondent No.-2) in favour of Respondents.

2. It is an admitted fact that applicant's marriage was solemnized with respondent No.1 on 23.04.2012 and out of their wedlock respondent No. 2 was born.

3. Before the Family Court, respondent No.-1 had filed an application under Section 125 of Cr.P.C. with the averment that after marriage, the applicant and his family members started harassing respondent No.-1 on demand of fridge and motorcycle etc. They tortured respondent No.-1 both physically and mentally and left her at her paternal house. After some days, the applicant came with some members of society and assured that he will not torture her again. On this assurance, respondent came along with applicant but, again in 2014, applicant and his family members send her back to her parental house. Respondent No.-1 resides with her own parents and is unable to maintain herself. On the other side, applicant is only son of his parents and he owns five acres of agricultural land and his earning is Rs. 4,00,000/- per year. In addition, applicant does agricultural work in half share and earns Rs. 50,000/- per year.

4. Applicant, in his reply denied the allegations levelled against him. It was pleaded by him that respondent No.-1 did not want to reside in matrimonial house and without any reasonable cause she is residing in her parental house. Applicant filed divorce petition against respondent. He further pleaded that applicant (husband) have no agricultural land and he is doing labour work. Since, the respondent No.-1 is residing separately without any reasonable cause, she is not entitled to get any maintenance.

5. Learned Family Court, after recording the evidence and submissions of both the parties, vide its order dated 26.02.2019, allowed the application of the applicant and granted maintenance to the respondents as mentioned in paragraph 1 of this order. Thus, this revision has been filed by the applicant.

6. 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. It is further submitted that the Court below has not taken into consideration that the conduct of respondent has been arrogant, obstinate and cruel. The applicant is only son of his parents and he has to take care of his parents. Learned Family Court has wrongly assessed applicant's income. Therefore, award of Rs. 3,500/- per month is against the law.

8. Heard learned counsel for the applicant and perused the material on record, including the impugned order, minutely.

9. Respondent No. 1 examined herself as AW-1 and also examined his father Munna Lal as AW- 2, her brother-in-law Vijay Kaushik as AW-3. The applicant (husband) also examined himself as NAW- 1, Manrakhan as NAW-2, Tihari Lodhi NAW-3 and Manharan Lal Kaushik NAW-4. Both applicant and respondent No. 1 have deposed as per their pleadings before the Family Court.

9. As deposed by respondent No. 1, the applicant and his family members have beaten her and expelled her from their house and, after some time, he came with some member of their society, gave assurance not to do such heinous act again. On his assurance her parents sent her to matrimonial house but after some days, in the year 2014, again they have beaten her and expelled her from the matrimonial house. Contrary to this, the applicant in his statement stated that in their society, there is no tradition of any dowry and he never demanded any dowry. He never tortured her neither physically nor mentally. After six months of his son's birth, she went to her parental house and after 15 days when the applicant went to take the respondent back, she denied to come with him. But the applicant has not stated any reason in his statement as to why respondent No. 1 did not come back with him after 2014. It also emerges from the evidence of

both the parties that there is no substance in the argument of applicant that respondent No. 1 is residing separately without any reasonable cause. Thus, the finding of the Family Court is in accordance with law.

10. With regard to quantum of maintenance, the applicant himself has admitted that he is only son of his father and in Parsada, there is 2 acre land registered in the name of his father. Applicant has also admitted that he is doing painting work and earning Rs. 250/- per day.

11. Looking to the facts and circumstances, the financial status of both the parties and earning capacity of the applicant, it is clear that the order passed by the Family Court is just and proper and requires no interference by this Court.

12. Accordingly, this revision has no substance and it is liable to be and is hereby dismissed.

Sd/-
(Rajani Dubey)
JUDGE

Vijay Sahu