

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 404 of 2019**

- Shekhar Sahu S/o Premlal Sahu Aged About 30 Years R/o Near School, Anandgaon, Police Station Berla, District- Bemetara, Chhattisgarh.

---- Applicant**Versus**

1. Smt. Sushma Sahu W/o Shri Shekhar Sahu Aged About 27 Years
2. Nitin Sahu S/o Shekhar Sahu Aged About 9 Years(Minor)

Respondent No.2 is Minor Being Represented Through His Natural Guardian Mother Smt. Sushma Sahu, W/o Shekhar Sahu, Both are R/o Durga Chowk, Bada Ashok Nagar, Gudiyari, Raipur, District- Raipur, Chhattisgarh.

----Respondents

For Applicant	: Shri Suresh Tandon, Advocate
For Respondents	: Ms. Sunita Sahu, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****21.8.2019**

1. Heard on admission.
2. This revision is directed against the order dated 7.2.2019 passed by the 1st Additional Principal Judge, Family Court, Raipur (CG) in MJC No.77/2017, whereby, the Court below has granted maintenance of Rs.4,000/- and Rs.2,500/-, total Rs.6,500/- per month to respondent Nos. 1 and 2 respectively.
3. It is not disputed that the applicant and respondent No.1 are legally married husband and wife and respondent No.2 has born out of their wedlock. Before the Family Court, respondent No.1-wife filed an application under Section 125 Cr.P.C. for grant of maintenance

on the ground that she was married to the applicant on 18.4.2005 and respondent No.2-Nitin was born after 2 years. She alleged that after birth of respondent No.2, the applicant started treating her with cruelty and abusing her. He was suspecting her character and consuming liquor and beating, due to which, she was forced to left the matrimonial house and reside with her parents. Respondent No.1 has no source of income and she is unable to maintain herself and her son. The applicant has 3 acres of agricultural land, therefore, the respondents pray for grant of maintenance of Rs.15,000/- per month.

4. In reply, the applicant denied the allegations levelled against him and submitted that the respondent/wife herself did not want to live with him and she left the matrimonial house on her own will without telling him. He pleaded that she is doing stitching and embroidery work and thereby earning Rs.10,000/- per month. Her father has two trucks and doing transport business and earning Rs.40-50 thousand per month, therefore, she is able to maintain herself.
5. Before the Family Court both the parties have adduced their evidence and after recording their statements, the Family Court vide order dated 7.2.2019 has granted maintenance of Rs.4,000/- to respondent No.1- wife and Rs.2,500/- to respondent No.2- son, total Rs.6,500/- per month. The applicant has filed this revision for setting aside the order of maintenance passed in favour of respondent No.1. However, he is ready to pay maintenance to respondent No.2-son.

6. Learned counsel for the applicant submits that the impugned order passed by the Family Court is bad, illegal and perverse as also contrary to law and the evidence on record, therefore, it deserves to be set aside. He submits that the respondent/wife is living separately along with her son without reasonable cause and thereby violates the mutual agreement condition of marriage which has been accepted in a Meeting of Society. She is a working woman and economically capable of earning. She is doing work of stitching and embroidery etc. and earning Rs.10,000/- per month. Respondent No.1 is giving education to her son in Deffodil English Medium School. The applicant is doing job in R.K. Roadways and earning only Rs.6,000/- per month. He further submits that the Family Court has failed to notice that the applicant and respondent No.1 are living separately since last 5 years, which is evident that the marriage between them has irretrievably broken down and they are unwilling to live together. He submits that the order may be set aside.
7. On the other hand, learned counsel for the respondents supported the impugned order and submits that there is no illegality or irregularity in the order passed by the Family Court.
8. Heard learned counsel for both the parties and perused the material on record.
9. Before the Family Court, the applicant and respondent No.1 have levelled allegations against each other which is evident from para 7 to 13 and it is clear that the applicant was treating respondent No.1

with cruelty. He was suspecting her character and beating her. A social meeting was also convened and the applicant was made understand behaving his wife(respondent No.1) properly, but the applicant did not improve his behaviour, therefore, respondent No.1 left the matrimonial house along with her son and started residing with her parents. Therefore, the Family Court on appreciation of evidence has rightly recorded the finding that respondent No.1 has sufficient reason to live separately from the applicant. As regards quantum is concerned, the applicant himself has admitted that he is working in a Transport Company and he has filed one document, Ex. D1 regarding his income of Rs.6,000/-. The applicant has not examined any witness to prove this document, therefore, it is not trustworthy and it cannot be said that the applicant is earning only Rs.6,000/- per month. The Family Court had awarded only Rs.6,500/- in all as monthly maintenance to the respondents, who are wife and son of the applicant and that cannot be termed to be disproportionate or unreasonable looking to the present price index. Thus, the revision has no merits and the same is liable to be and is hereby dismissed at the motion stage itself.

Sd/

(Rajani Dubey)
JUDGE