

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 462 of 2019

- Smt. Monika Sahu, W/o Harishankar Sahu, Aged About 24 Years, R/o Quarter No. 09/E, Street No. 33, Sector 06, Bhilai, Tahsil And District- District : Durg, Chhattisgarh

---- Applicant

Versus

- Harishankar Sahu, S/o Puran Lal Sahu, Aged About 30 Years, R/o Village And Post- Pauha, Tahsil - Patan, District : Durg, Chhattisgarh

---- Respondent

For Applicant	:	Shri Purnendra Khichariya, Adv.
For Respondent	:	Smt. Uma Sahi, Adv.

Hon'ble Smt. Justice Rajani Dubey

Order on board

06.08.2019

The applicant has preferred this revision against order dated 28.01.2019, passed by Learned First Additional Principal Judge, Family Court, Durg, in Miscellaneous Criminal Case No.216/13 dismissing the application filed by the applicant under Section 125 of the Criminal Procedure Code.

2. Facts of the case, in brief, are that on 28.05.2011, marriage of applicant was solemnized with the respondent, and thereafter, she was subjected to cruelty for bringing less dowry, due to that, the applicant left her matrimonial house. On 22.02.2013, the applicant (wife) had filed an application under Section 125 of the Code of Criminal Procedure seeking maintenance from the respondent(husband) alleging that she is unable to maintain herself, yearly income of the

non-applicant is six lakhs rupees, he has four vehicles, electrical repairing shop and agricultural land. Therefore, she is entitled to get monthly maintenance of Rs.10,000/- from the respondent.

3. In reply, respondent denied all the allegations made against him. He pleaded that after the marriage, the applicant did not want to live with him as she always used to go to her parental house without any reasonable cause. Finally, a social meeting was called by respondent, in which applicant and her family members were being punished by his society. The respondent also filed an application under Section 9 of the Hindu Marriage Act.

4. Before the family Court, both the parties have adduced their evidence, and after recording their evidence and their submissions, the Family Court, vide impugned order dated 28.01.2019, dismissed the application filed by the applicant. Hence, this revision.

5. Learned counsel for the applicant submits that the impugned order is arbitrary, illegal and contrary to the evidence and documents adduced by the applicant. The applicant has left her matrimonial house due to cruelty being done by the respondent and she has suffered mentally and physically. The respondent has sufficient means of income as he is running electrical shop and also have agricultural land. The applicant has no source of income to survive, therefore, the impugned order is liable to be set aside.

6. Counsel for the Respondent has supported the impugned order.

7. I have heard counsel for the parties and perused the record to assess the correctness of the impugned order.

8. The applicant has clearly stated in her examination before the Court, that after 12.06.2012, she did not go to her matrimonial house.

9. In Para 22, she also stated, that the respondent/non-applicant wants to take applicant with him but she refused to live with him. The learned Family Court finds that the applicant is living separately without any reasonable cause and the respondent has also filed an application under Section 9 of the Hindu Marriage Act, which was allowed by the Family Court. The learned Family Court on relying on the judgments of M.P. in the matter of **Shashi Yadav Vs. Sachin Yadav**¹ and **Rinki @ Jyoti Vs. Halke Ram Batham**² dismissed the application filed by the applicant holding that the applicant is residing with her parents without any reasonable cause and she is not entitled for maintenance. That apart, it is clear from the oral and documentary evidence on record, that respondent wanted to live with his wife and in that connection, he had also, called a social meeting, filed an application under Section 9 of the Hindu Marriage Act, but all efforts went into vein. This Court do not find any fault in the approach of the Family Court in dismissing the application of the applicant. The order passed by the learned Family Court is just and proper requiring no interference by this Court.

10. Accordingly, the revision has no merit and the same is dismissed.

Sd/-
(Rajani Dubey)
Judge

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1 MP Weekly Note, 2013(2) Note No.27

2 MP Weekly Note 2017(3) Note No.82