

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 480 of 2019**

- Smt. Sarojani Rathore W/o Shri Umashankar Rathore, aged about 30 years, R/o. Vill.- Lahanga, P.S. and Tah. Baradwar, District Janjgir-Champa Chhattisgarh. Present Address- Village- Sivni, P.S. and Tah. Champa, District Janjgir-Champa (C.G.)

---- Applicant**Versus**

- Umashankar Rathore, S/o Shri Firtu Ram Rathore, aged about 32 years, R/o Vill – Lahanga, P.S. and Tah. Baradwar, District Janjgir-Champa Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Ravindra Sharma, Adv.
For Respondent	:	Mr. Shrawan Agrawal, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****05.09.2019**

1. The present revision petition has been filed by the applicant against the order dated 18.03.2019 passed by learned Judge, Family Court Janjgir-Champa, District Janjgir-Champa (C.G.) in Miscellaneous Criminal Case No. 136/2017, whereby the learned Family Court has dismissed the application filed under Section 125 of Cr.P.C. by the applicant.

2. Before the Family Court, an application has been filed by petitioner (wife) under Section 125 of Cr.P.C, for grant of monthly maintenance of Rs. 10,000/- per month, against respondent (husband) on the ground that her marriage was solemnized with the respondent on 27.04.2008 at Village Sivni as per Hindu Rites and Customs and after some time of marriage, respondent as well as his family members started harassing her and quarreling on trifles for demand of dowry, due to which, after being harassed, she started residing at her parental house. Due to physical and mental harassment, the applicant suffered from severe diseases and, at present, she is under treatment. She is unable to maintain

herself because she has no source of income, therefore, she filed application for grant of maintenance. On the other hand, respondent has sufficient means of earning and it is his bounden duty to maintain his wife/the applicant but he did not provide any amount on account of maintenance.

3. In his reply, respondent denied all the allegations made against him and stated that petitioner has gone to her parental house without any reasonable cause and she herself did not want to live with him. He further pleaded that, as on 29.08.2013, the agreement of divorce was executed by both the parties and respondent (husband) paid Rs. 2,25,000/- as permanent alimony, she is not entitled to get any maintenance from the respondent.

4. Before the Family Court, both the parties have adduced their evidence and after recording their evidence and hearing submissions, the family Court vide its impugned order dated 18.03.2019, dismissed the application of applicant filed under Section 125 of Cr.P.C. Hence, this revision.

5. Learned counsel for the applicant would submit that applicant is legally wedded wife of respondent and their marriage was solemnized on 27.04.2008. Learned Family Court has committed gross error of law in dismissing the application on the ground of the agreement executed on 28.08.2013, which is not a legally admissible document because it has not been proved according to the law. He further added that, learned trial Court has erred in not considering the fact that the applicant has not received any amount from the respondent, the applicant is unable to maintain herself and is fully dependent upon her parents for her livelihood, therefore, he pleaded the maintenance amount from the respondent.

6. On the other hand, learned counsel appearing on behalf of the respondent has supported the impugned order of the Court below and submitted that if the applicant had not received the permanent alimony, as was executed in the agreement dated 28.08.2013, she should have complained before the social meeting or the concerned police station.

7. Heard learned counsel for the parties and perused the material on record including the impugned order.

8. Be that as it may, there is no dispute on the point that the marriage between the applicant and respondent was solemnized on 27.04.2008, and after some time, after being harassed, applicant started living separately.

9. Before the trial Court petitioner (wife) examined herself as AW-1 and also examined Ramadhin (AW-2), Umesh Kumar (AW-3), her father Dashrath (AW-4) and Firangi and, on the other hand, respondent examined himself, Lachchhiram (NAW-1) and Dinesh Kumar (NAW-2) and filed some documents that are social meeting agreement (Ex.D-1), proceeding of social meeting (Ex. D-2), Acknowledgment (Ex. D-3) and petitioner's letter (Ex.D-4) which shows that, with the consent of both the parties and according to the agreement, which was executed in the social meeting, the respondent had given the applicant permanent alimony of Rs. 2,25,000/-. Learned trial Court in its order from para 7 to para 38, after proper appreciation of oral and documentary evidence, finds that applicant is living separately due to their social meeting document evidence (Chhod-Chhutti) and respondent paid Rs. 2,25,000/- as permanent alimony, therefore, petitioner is not entitled for any maintenance. This finding is based upon proper appreciation of evidence of both the parties and I do not find any illegality in the findings recorded by Court below.

12. Considering the overall evidence & circumstances of the case, I am of the view that the order impugned dismissing the application filed by the applicant is absolutely justified and does not require any interference by this Court.

13. Thus, the revision filed by the applicant has no substance and is hereby dismissed.

Sd/-
(Rajani Dubey)
JUDGE