

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 446 of 2018**

Ishwar Lal Sahu S/o Shri Kanshiram Sahu, aged about 36 years R/o Village Chandrashekhar (Adu), Tahsil Dharamjaigarh, District Raigarh (C.G) at present resident of Shanti Nagar, Bankimongra, Tahsil Katghora, District Korba (C.G.).

---- Applicant**Versus**

1. Smt. Uttara Kumar Sahu, aged about 35 years W/o Ishwarlal Sahu,
 2. Minor Ku. Himani @ Pinki Sahu, aged about 7 years D/o Ishwar Lal Sahu, minor represented through mother Smt. Uttara Kumari Sahu,
- Both are R/o Village Tundri, P.S. & Tahsil Dabhara, District Janjgir-Champa (C.G.), at present resident of Village Rungara, Police Station Balco, Tahsil & District Korba (C.G.).

---- Respondent

For Applicant	:	Mr. Aditya Khare, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**22/02/2019**

1. Heard on admission.
2. This revision has been filed by the Applicant/Husband against order dated 31/01/2018 passed in MJC No. 79/2017 by the learned Family Court, Korba, whereby the Applicant has been directed to pay Rs. 7000/- per month to the Respondents towards their maintenance.
3. Counsel for the Applicant submits that from the evidence adduced by the parties, it shows that Respondent No. 1/Wife is residing separately without any reasonable cause, inspite of that the learned Family Court

granted maintenance in favour of Respondent No. 1/Wife. He further submits that since she is residing separately without any reasonable cause, therefore, she is not entitled to get maintenance. He further submits that though the Applicant is working in SECL, he only works as labourer, therefore, the maintenance amount of Rs. 7000/- is on higher side.

4. On minute perusal of records of the Courts below shows that Respondent No. 1 has categorically deposed that without taking any divorce from her, the Applicant has performed second marriage with her younger sister and presently residing with her. Though, the Applicant has not examined himself before the Family Court, in his reply submitted before the said Court, he admitted this fact. From the above, it is clear that the Applicant without taking any legal or social divorce from Respondent No. 1 i.e. legally wedded wife of him, has performed second marriage and is residing with his second wife, therefore, Respondent No. 1 has sufficient cause to reside separately from the Applicant. Thus, the finding of the Family Court in this regard is in accordance with the evidence available on record.
5. With regard to quantum of maintenance amount, admittedly the Applicant is working with SECL. Though as pleaded by him he is working as labour, what salary is he withdrawing he has not disclosed. Respondent No.1/Wife in her statement recorded before the Family Court stated that the Applicant earns Rs. 40000 to 50000 per month. Her above statement is not rebutted during her examination before the Court. Therefore, the maintenance amount of Rs. 7000/- as awarded

by the Family Court, is also in my considered opinion is just and proper.

6. Consequently, the revision has no merit and the same is dismissed at motion stage itself.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul