

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 108 of 2011**

- Smt. Yamuna Sahu W/o Manoj Sahu (D/o Shri Raja Ram), aged about 20 years, R/o Jawahar Nagar, Rambhata, Raigarh, at present residing at parental house, Khalhepara, Janakpur, Tamnar, Tahsil Gharghoda, District Raigarh (C.G.) (Applicant before the Family Court)

----Petitioner**Versus**

- Manoj Sahu S/o Bharat Lal Sahu, aged about 21 years, occupation Pan Shop, resident of Rambhata, Jawahar Nagar, Tahsil and District Raigarh (C.G.) (Non-applicant before the Family Court)

---- Respondent

For Petitioner	:	Ms. Shivali Dubey, Advocate.
For Respondent	:	None

Hon'ble Smt. Justice Rajani Dubey**Order On Board****21/08/2019**

1. Heard on admission.
2. Challenge in the present revision filed under Section 19 (4) of the Family Courts Act read with Section 397/401 of the code of Criminal Procedure is to the order dated 01.12.2010 passed by Judge, Family Court, Raigarh, in Cr. M.J.C. No.41/2010 whereby the learned Family Court has dismissed the application filed under Section 125 CrPC by the applicant.
3. It is admitted facts before the trial Court that the

marriage of applicant was solemnized with respondent on 02.05.2009.

4. The petitioner/wife filed an application under Section 125 of Code of Criminal Procedure before the learned Family Court for grant of maintenance of Rs.5,000/- per months from the respondent/husband on the ground that after marriage respondent/husband and his family members started torturing her physically and mentally. Owing to this, she lodged the report on 09.04.2010 and subsequently filed a complaint case in the Court of Judicial Magistrate First Class, Raigarh, because the police had not taken any action on her complain against respondent. It has been further pleaded that she is residing in her parents' house. She is unable to maintain herself. The respondent has betel shop at his own house and he has given 7-8 rooms on rent. Therefore, she may be awarded Rs.5,000/- per month as maintenance.
5. In reply, the respondent denied all the allegations levelled against him and stated that the marriage of applicant was solemnized with him on 02.05.2009. After marriage, he had gone twice in his in-laws house at village Tamnar for residing as the petitioner and her family members assured him that they would manage service (job) for him at Tamnar. During his stay at his in-laws' house for about 15 days, no job was arranged for

him and he came back to his house. Thereafter, the petitioner/wife and her family member again came to his house and same assurance was given to him. They also threatened his father of false implication in case, report of which was made by his father on 10.06.2009 at police station City Kotwali, Raigarh. The petitioner/wife and her family members also told him to arrange Rs.40,000/- for setting up a business at Tamnar and he arranged so, but after many days when the business could not be started by them, he demanded his money back on which they quarreled with him, threatened him that they would falsely implicate in dowry case and ousted him. Thereafter, he called a meeting of their society and after convincing the petitioner, she started living with him. After few days, respondent came to know that the petitioner used to talk with someone on mobile, and being inquired, she had admitted that she was talking with her lover and, thereafter, she again went to her parental house.

6. The learned trial Court, after hearing both the parties, rejected the application of the petitioner holding that the petitioner is not entitled to received maintenance from the respondent. Hence, this revision petition filed by the petitioner.
7. Learned counsel for the petitioner submits that the

impugned order rejecting the maintenance is illegal and contrary to the law. The learned Family Court without finding any trustworthy and concrete evidence wrongly reached at the conclusion that the petitioner is living in 'adultery' merely relying upon the oral evidence of NAW-1/husband. The learned Family Court should have seen that merely talking on mobile with someone cannot be termed that the petitioner is living in adultery. He further submits that the learned Family Court has wrongly appreciated the documents filed by respondent. The learned Family Court committed grave error in not appreciating the fact that the respondent/husband himself through its own documents proved the cruelty being meted out to the petitioner. Therefore, the impugned order may kindly be set aside and the adequate maintenance may kindly be granted to her.

8. None appeared for respondent though notice has been served.
9. Heard the learned counsel for the applicant and perused the material on record including the impugned order.
10. Before the learned Family Court, petitioner examined herself as AW/1, Sundeep (AW/2) and Santosh Sahu (AW/3). Respondent examined himself as NAW/1, his neighbour Rahul Mishra (MAW/2) and Smt. Radhika Bai (NAW/4) and filed documents (Ex.D-1 to D-7). The

learned trial Judge, from para 17 to 39, after appreciating the oral and documentary evidence, recorded its finding in para 40 that the petitioner/wife is living separately without just and sufficient reason as also she is living in adultery.

11. The finding of the learned Family Court is based on proper appreciation of evidence on record and this Court does not find any illegality or infirmity in the order impugned warranting interference by this Court.
12. Accordingly, this revision has no substance and it is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE