

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 552 of 2019**

1. Smt. Rama Jaiswal W/o Vijay Jaiswal Aged About 32 Years
2. Deepansh Jaiswal S/o Vijay Jaiswal Aged About 2 Years Minor Through Legal Natural Guardian Mother Smt. Rama Jaiswal, W/o Vijay Jaiswal, Aged About 32 Years

Both are R/o Village Kurda (Champa) District Janjgir Champa Chhattisgarh. At Present Behind Siyan Sadan, Khapra Bhattha Budhwari Bazar, Ward No. 21, Police Station Tahsil And District Korba Chhattisgarh.

---- Applicants

Versus

- Vijay Jaiswal S/o Shri Hari Ram Jaiswal, Aged About 35 Years R/o Village Kurda, Champa District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicants	: Shri Ashutosh Shukla, Advocate
For Respondent	: Shri P.M. Shrivastava, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****01.8.2019**

1. Heard on admission.
2. This revision is directed against the order dated 15.2.2019, passed by the Judge, Family Court, Korba, District Korba(CG) in MJC No. 35/2018, whereby, the Judge Family Court has dismissed the application of applicant No.1(wife) and granted maintenance of Rs.2000/- per month to applicant No.2(son).
3. Facts of the case are that the applicants filed an application under Section 125 Cr.P.C. for grant of maintenance against the respondent on the ground that applicant No.1 was married to the

respondent on 2.5.2014 as per social customs and rituals and out of their wedlock, applicant No.2 was born. After some time of the marriage, the respondent and his family members harassed and mentally tortured applicant No.1 and demanded Rs.2,00,000/- and a motorcycle otherwise, the respondent denied to keep her. The respondent is habitual of consuming liquor and he is not taking care of her and he called the father of applicant No.1 and forcibly sent her to parental house and since then she is residing at her parental house. Applicant No.1 pleaded that she is unable to maintain herself and her child, therefore, she filed an application before the Family Court under Section 125 Cr.P.C. claiming maintenance of Rs.7000/-. The respondent is working as Crane Operator in the Chhattisgarh Power Plant, Amazar, Champa and earning Rs.12,000/- per month.

4. Denying the allegations, the respondent pleaded that applicant No.1 is living separately on her own will and they have never demanded any dowry from her, therefore, she is not entitled for any maintenance.
5. The Family Court after hearing learned counsel for the parties, rejected the application filed on behalf of applicant No.1(wife) and granted maintenance of Rs.2000/- per month to applicant No.2 (minor son). Hence, this revision.
6. Learned counsel for the applicants submits that the order passed by the Family Court is arbitrary, illegal and contrary to the evidence and documents submitted by the applicants. The Family Court has

passed the impugned order without considering the facts and material on record. The Family court has failed to consider that the respondent called the father of applicant No.1 and without any reason forcibly sent her to the parental house. The respondent and his family members have mentally harassed and tortured applicant No.1. The respondent has sufficient source of income and he is working as a Crane Operator in the Chhattisgarh Power Plant Amazar, Champa and earning Rs.12000/- per month and he has agricultural land from which he earns lacs of rupees per year. He pleaded that applicant No.1 is dependent on her parents and her parents are poor, therefore, the order dated 15.2.2019 is liable to be set aside.

7. On the other hand, learned counsel for the respondent supported the impugned order and submits that the order passed by the trial court is just and proper and requires no interference by this Court.
8. I have heard learned counsel for the parties and perused the impugned order.
9. This revision has been filed against the order of rejection of maintenance to applicant No.1. The respondent has filed the documents vide Ex.D1 to D5 before the Family Court, which shows that applicant No.1 is not willing to reside in her matrimonial house. The respondent has filed various applications before the Family Counselling Centre and Police Station for counselling and he has also filed application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The Family court, on appreciation of

evidence came to the conclusion that applicant No.1 is residing separately from the respondent without sufficient reason, therefore, she is not entitled for maintenance from the respondent. However, the Family court held that as applicant No.2 is minor and residing with his mother, he is entitled for maintenance and granted a sum of Rs.2000/- per month as maintenance.

- 10.** Considering the facts and circumstances of the case and the evidence on record, this Court is of the view that the impugned order passed by the Family Court is just and proper and there is no illegality or perversity in rejecting the application for grant of maintenance filed under Section 125 Cr.P.C. filed on behalf of applicant No.1. However, the order of maintenance of Rs.2000/-per month under Section 125 Cr.P.C. granted in favour of applicant No.2- minor son is just and proper.
- 11.** The, revision has no merits. Accordingly, it is dismissed at the motion stage itself.

Sd/

(Rajani Dubey)
JUDGE