

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 123 of 2014**

Smt. Nita Sahu W/o Nand Kumar Sahu, aged about 25 years R/o Village Kendri,  
Tahsil & P.S. Abhanpur, District Raipur (C.G.)

--- Applicant

**Versus**

Nand Kumar Sahu S/o Late Bisoharam Sahu, aged about 32 years R/o Roshni  
Fancy Stores, Boroda Chowk, Mahasamund, Tahsil & District Mahasamund  
(C.G.)

---- Respondent

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| For Applicant  | : | Ms. Aparajita Gayakward, Advocate |
| For Respondent | : | Ms. Mandvi Bhardwaj, Advocate     |

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Hon'ble Shri Justice Arvind Singh Chandel

**Order on Board**

**16/01/2019**

1. This revision has been preferred against order dated 20/01/2014 passed in Criminal MJC No. 40/2012 by the Family Court, Raipur, whereby the Family Court has rejected the application of the Applicant submitted under Section 125 of the Code of Criminal Procedure on the ground that though the Applicant is legally wedded wife of the Respondent, she is residing separately without any reasonable cause. Thus, this revision has been filed by the Applicant/Wife.
2. Pleading of the Applicant before the Family Court is that the marriage between the Applicant and the Respondent was solemnized on 15/06/2009. After some time of marriage, the Respondent and his family members started to harass the Applicant mentally and physically for the demand of dowry. On 25/05/2010, a report was made by the Applicant in Police Station Mahela Thana, Raipur. Later on after a compromise, the Applicant and the Respondent resided together. It

was further pleaded that the Respondent and his family members again started cruelty with her, and due to which she is residing separately at her maternal house. She is unable to maintain herself and the Respondent has sufficient means to maintain her.

3. The Respondent denied the allegations made by the Applicant. It was pleaded by him that the Applicant without any reasonable cause is residing separately. The Respondent also filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal right, but inspite of that, the Applicant is not ready to reside with him. It was further pleaded that a social meeting was also convened, but the Applicant did not come there. Since, the Applicant is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance.
4. The Applicant examined herself as Applicant Witness No. 1, her father Baluram as Applicant Witness No.2 and her uncle Motilal as Applicant Witness No.3 and also submitted some documents. The Respondent examined himself as Non-Applicant Witness No.1 and one Narayan Lal as Non-Applicant Witness No. 2.
5. After recording the evidence of both the parties and hearing them, the learned Family Court rejected the application on the ground that the Applicant is residing separately without reasonable cause, thus she is not entitled to get any maintenance.
6. Counsel for the Applicant submits that from the evidence adduced by the Applicant, it is established that she is residing separately from the Respondent with sufficient cause, therefore, she is entitled to get

maintenance from the Respondent, but the learned Family Court without proper appreciation of evidence adduced by the Applicant, rejected the application of the Applicant.

7. Counsel for the Respondent supported the impugned judgment.
8. I have heard counsel for the parties and perused the record minutely.
9. There is no dispute on the point that the Applicant is illegally wedded wife of the Respondent and their marriage was solemnized on 15/06/2009. In her court statement, the Applicant stated that after marriage, the Respondent was of good behavior for about 2-3 months and thereafter he and his family members started to make bad comment on her. They also used to insult her by saying that she had brought bad articles in marriage. She was also not permitted to talk with her family members. When her father came on 30/03/2010, she returned to her house with him. Thereafter, on 25/06/2010 she made a report in the police station. After having compromise, the Respondent took her back with him. Later on, the Respondent again beaten her. Thus, on 04/07/2010 the Applicant along with her uncle and father returned to her maternal house and made another report in the police station. It was also stated by her that a social meeting was convened, but the Respondent did not take her with him.
10. The Respondent/Husband denied all the allegation made against him. He stated that Applicant resides with him for about 2-3 months. Thereafter, she used to say for taking a big house on rent. On 30/03/2010, the Applicant had gone to her paternal house and refused to return. He further stated that a report was also made by her against

him. Thereafter, a counseling was done and he took the Applicant with him on 04/07/2010. Later on, the Applicant again went to her parental house. He further stated that a social meeting was convened and then the Applicant went with the Respondent. Thereafter, on 25/07/2009, she again refused to reside with the Respondent.

11. In para 7 of her cross-examination, the Applicant admitted that on 30/03/2010, she had come back to her house along with his father and has been residing there since then. She further admitted that the Respondent did not come for about two months to take her, then she made a report on 25/05/2010. She further stated that on 01/06/2010, she was called in the police station and during counseling her husband was agreed to take her with him, and she was also agreed to go with him, but she did not go with him. Thereafter, on 08/06/2010 she and the Respondent were called in the police station again, but she again did not go with the Respondent. She further stated that on 29/06/2010, she and the Respondent again were called in police station and on that day also, her husband was ready to take her with him and she was also ready to go with him. Thereafter, on the saying of police personnel, she went with his husband. She further stated that the police officials told them to come again on 06/07/2010, but on 04/07/2010, she along with her Mama, Uncle and Brother went to her maternal house and did not go to police station on 06/07/2010. In para 10, she has categorically stated that she was not ready to reside with her mother-in-law and Nanad in a joint family.

12. From the above, it is clear that on 30/03/2010 the Applicant, first time,

had gone with her father to her paternal house and after about 2 months, a report regarding cruelty was made against the Respondent. On every counseling, the Respondent was ready to keep her with him, but the Applicant refused to go with him. It is also clear that on 04/07/2010, she had gone with his uncle and brother to her maternal house. From the above, it seems that the Applicant is not having any problem with the Respondent, but she does not want to reside in joint family along with mother-in-law and Nanad, and due to this reason, she is residing separately. Therefore, the finding of the Family Court in this regard is in accordance with law.

13. Considering the above aspect, I do not find any merit in this case. The same is accordingly dismissed.

Sd/-  
**(Arvind Singh Chandel)**  
**Judge**