

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 867 of 2018**

1. Smt. Nikita Ganveer W/o Anand Ganveer, aged about 29 years.
2. Ku. Aditi D/o Anand Ganveer, aged about 11 months, through minor natural guardian mother Smt. Nikita Ganveer.

Both are R/o House No.219, Mukt Nagar, Durg, District Durg (C.G.)

----Petitioners**Versus**

- Anand Ganveer S/o Ghanshyam Ganveer, aged about 35 years, R/o L.I.G. - 131, Hudco Bhilai Tahsil & District Durg (c.G.) Work Place - Assistant Manager, Cell, Research & Developmetn Cell of Iron & Steel, 5th Floor, Ispat Building, Bhilai, District Durg (C.G.)

---- Respondent

For Petitioners	:	Smt. Indira Tripathi, Advocate.
For Respondent	:	None

Hon'ble Smt. Justice Rajani Dubey**Order On Board****22/07/2019**

01. 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 21.05.2018 passed by Ist Additional Principal Judge, Family Court, Durg, in Miscellaneous Criminal Case No.235/2015, whereby the learned Family Court partially allowed the application of applicants (wife and daughter) granting maintenance only to

applicant No.2-Ku Aditi, the daughter.

02. In the application under Section 125 Cr.P.C. the applicants (wife and daughter) pleaded that on 25.12.2011 applicant No.1-wife was married to the respondent as per the Hindu traditions and out of their wedlock the respondent No.2 was born. In the matrimonial house, respondent-husband and his family members started harassing applicant No.1-wife mentally and physically and after some time, respondent-husband refused to keep applicant-wife along with him, as a result of which she started living with her parents. The applicants further pleaded that the respondent-husband had physical relation with another woman, applicant No.-1 (wife) has no source of income to maintain herself, respondent-husband is posed as Assistant Manager in Bhilai Steel Plant and his monthly salary was Rs.60,000/-, therefore, they were entitled to receive Rs.25,000/- per month from her husband as maintenances.

03. Refuting the averments of the applicants, it has been put forth by the respondent-husband that he never tortured his wife. Applicant No.1/wife is an engineer and was serving as Professor in Shivaji Engineering College, Balod Road Kolihapuri. Respondent-husband admitted that his salary is Rs.60,000/- per month, but after deduction toward housing loan, income tax etc. he gets only Rs.20,000/- per months. Respondent-husband is looking after his old aged parents, two unemployed unmarried sisters and one *divyang* (handicapped)

brother. It is stated that after the death of father of applicant No.1-wife, her mother was all alone, therefore, she wanted to reside with her mother. Respondent-husband is ready to keep and live with applicant No.1-wife.

04. After hearing and perusing the documents on record, the learned trial Court has refused to grant maintenance to applicant No.1-wife, but granted maintenance of Rs.8,000/- per month to applicant No.2-daughter. Hence, this revision.

05. Learned counsel for the applicants submits that the finding of learned trial Court is totally against the material available on record because there is ample evidence by which the applicants have proved her case for maintenance and also proved that why she is not residing with the respondent-husband and unable to reside at her in-laws' house. He further submits that the respondent-husband continuously tortured the applicant No.1-wife mentally and physically. He also submits that the learned trial Judge has held that the respondent-husband was drawing salary of Rs.80,000/- per month, but ordered to pay only Rs.8,000/- per month as maintenance to respondent No.2, which is insufficient amount and atleast Rs.10,000/- ought to have been granted. He further submits that respondent-husband was having sufficient means to maintain his wife and from the material, it is clearly established that the applicant No.1-wife has no source of income to maintain herself. Therefore, the impugned order may be set aside by enhancing the

maintenance amount suitably.

06. None for respondent, though notice has been served.

07. Heard learned counsel for the applicants and perused the material on record.

08. The learned trial Court, on the basis of evidence of applicant No.1-wife and her mother, has given reasoned finding in para 28 and 29 that the applicant No.1-wife started living with her mother of her own. It has come in the evidence that after the death of father of applicant No.1-wife, her mother was all alone, therefore, she started living with her mother. Considering the evidence of applicant No.1-wife, the finding so recorded by the trial Court cannot be termed as erroneous. It has also come in the evidence that the applicant No.1-wife is an educated lady, was serving in Engineering College in the capacity of Professor, meaning thereby she is well capable to maintain herself, and the trial Court has not committed any error in rejecting her maintenance claim. As regards enhancement of maintenance amount to applicant No.2, the respondent-husband, in para 32 of his evidence, has admitted that he is working as Assistant Manager in Bhilai Steel Plant and getting salary of Rs.80,000/- per month. It is pertinent to mention here that the respondent-husband is working in public sector, his salary was Rs.80,000/- per month in the year 2015, and by the efflux of time, his salary definitely would have been increased.

09. Thus, in view of the aforesaid discussion, the revision is

partly allowed. Impugned order dated 21.05.2018 is modified to the extent that respondent-husband shall pay Rs.10,000/- to applicant No.2-daughter per month as maintenance from today instead Rs.8,000/-.

Sd/-

(Rajani Dubey)
JUDGE

Vijay