

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 229 of 2017**

- Kheersagar, S/o Late Ranjeet, Aged About 30 Years, Caste Aghariya, R/o Village Aghariya, R/o Village Lendhra, Post- Lendhra, Police Station & Tahsil Baramkela, District- Raigarh, Chhattisgarh.

---- Applicant**Versus**

- Rukmani W/o Kheersagar, Aged About 26 Years, Caste Aghariya, R/o Village Lendhra, Post Lendhra, Police Station & Tahsil Baramkela, District- Raigarh, Chhattisgarh At Present R/o Village Daganiya, Post Nawagarh, Tahsil & Police Station- Saraipali, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Vikash Pradhan, Advocate
For Respondent	: Mr. Sumit Shrivastava, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order on Board****30.09.2019**

1. Heard on Admission.
2. This revision has been filed by the applicant against order dated 06.09.2016 passed by Judge, Family Court, Camp Court, Saraipali, Mahasamund (C.G.), in Miscellaneous Criminal Case No. 60/2015 whereby, the family Court partly allowed the application under Section 125 of Cr.P.C. filed by respondent and granted Rs. 1,500/- per month as maintenance in favour of respondent.
3. Brief facts of the case are that marriage of applicant and respondent was solemnized in the month of May, 2011 and after marriage, the applicant started to subjecting her with cruelty on account of dowry. In the meantime, she became pregnant and gave birth to a son, who died after four months of birth. After death of son, the applicant again

started to subjecting her with cruelty for demand of dowry, for which, social meeting was convened and ultimately she ousted from matrimonial house. It is further contended that she is living with her old mother and doing labour work and she is unable to maintain herself. The applicant is having sufficient source of income. So, she demanded Rs. 3,000/- per month as maintenance.

4. The applicant denied all allegations stating that he never tortured his wife right from beginning, the applicant was aware of this fact that father of respondent has expired, therefore, there was no question of demanding dowry from the mother of the respondent. The parents of the respondent concealed the fact that the respondent is suffering from epilepsy and sickling and the son was also suffering from epilepsy, due to which, he died. After death of child, the mother of respondent took her to parental house at village Daganiya, and she refused to come back. She is living separately without any reasonable cause and applicant is a disabled person and has no source of income. So, application is liable to be dismissed.
5. The family Court after appreciating oral and documentary evidence of both the parties, partly allowed the application of respondent and granted Rs. 1,500/- per month as maintenance Hence, this revision.
6. Learned counsel for the applicant submits that impugned order dated 06.09.2016 passed by the family Court is bad in law, perverse, arbitrary, erroneous, therefore liable to be set aside. Learned family Court failed to appreciate that the applicant is a disabled person and has no source of income therefore, Rs. 1,500/- per month as maintenance is very excessive. The respondent is living separately without any reasonable cause, therefore, she is not entitled to get any maintenance. Learned family Court has failed to appreciate that the

respondent herself stated that she is doing labour work and maintaining herself. She also admitted the fact that she herself left the matrimonial house and went to her parental house and despite several efforts made by the applicant, she did not come back to her matrimonial house. The applicant is ready and willing to keep respondent with him and even today he is ready and willing for the same but the respondent is not willing to live with the applicant, so impugned order is liable to be set aside.

7. Learned counsel for the respondent supporting the impugned order submits that the family Court was fully justified in passing the impugned order.
8. Heard learned counsel for both the parties and perused the material available on record.
9. It is an admitted fact that respondent is legally wedded wife of the applicant. Before the family Court, the respondent herself examined as Rukmani (AW/1), Kriparam (AW/2) and Rajkumar (AW/3) and applicant examined as Kheersagar (NAW/1) and Kanhaiya Lal Sarthi (NAW/2). Learned family Court from Para 8 to 20 appreciated oral and documentary evidence by both the parties and found that respondent is legally married wife of the applicant and the applicant is liable to maintain his wife and awarded Rs. 1,500/- per month as maintenance. This order is based upon proper appreciation of oral and documentary evidence, this Court does not find any irregularity or illegality in the finding so recorded by the Court below.
10. Accordingly, the revision petition is dismissed at motion stage.

**Sd/-
(Rajani Dubey)
Judge**