

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 907 of 2019**

- Pawan Samrath S/o Shri Vishamlal Samrath Aged About 37 Years By Caste Halba, R/o Village Hirri, Badedongar, Thana And Tahsil Kondagaon, District Kondagaon, Chhattisgarh.

---- Applicant**Versus**

- Smt. Mangli @ Khushi Samrath W/o Pawan Samrath Aged About 30 Years By Caste Halba, R/o C/o Surja Nag, W/o Late Ramesh Kumar Nag, H.No. 333, Shivanagar, Ward Tahsil And Thana Kanker District U.B. Kanker, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Parag Kotecha, Adv.
For Respondent	: Mr. Shobhit Koshta, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****03/10/2019**

1. Heard on admission.
2. The present revision has been filed by the applicant against the order dated 19.03.2019 in Criminal case No. 46/2018 passed by the learned Judge Family Court, Kanker, C.G. whereby the learned trial Court has allowed the maintenance application filed by respondent under Section 125 of Cr.P.C. and granted Rs. 7,000/- per month as maintenance.
3. Brief facts of the case are that, respondent (wife) filed an application under Section 125 Cr.P.C. against applicant, before the learned Family Court, Kanker on this ground that, she was married with the applicant on 19.05.2013 and out of their wedlock one child Aman was born on 26.03.2015. After birth of child, the applicant used to harass for dowry. It is also alleged that the father of the applicant used to keep dirty eye on her, due to, harassment the respondent left house of applicant (husband) and

residing with her sister. Respondent is unable to maintain herself and applicant is a Govt. Servant and his salary is Rs. 15,633/- per month. So, she is demanding Rs. 10,000/- per month as maintenance.

4. In his reply, the applicant denied all allegations made by the respondent and stated that application filed by the respondent is false, he never tortured his wife. The respondent is having illicit relationship with another person, she always used to talk on phone with someone else. Applicant next stated that respondent used to beat the child, therefore, child did not want to live with respondent. It is also stated that the salary of the applicant is only Rs. 8,000/- per month, after social meeting applicant took the respondent at his house but after some days respondent left the house without informing family members, so, she is not entitled for any maintenance.
5. The learned Family Court after appreciating both parties oral and documentary evidence, partly allowed application of respondent (wife) and granted Rs. 7,000/- per month as maintenance. Hence, this revision.
6. Learned counsel for the applicant submits that the impugned order passed by the Family Court is bad on facts and as well as on law, the learned Family Court had totally ignored the conduct and attitude of the respondent and granted maintenance to the respondent, as per Section 125 (4) of Code of Criminal procedure, she is not entitled for any maintenance. He further submits that the learned family Court had not properly considered, evaluated and appreciated the pleading, evidence of parties before granting and passing maintenance order. He next submits that the learned family Court had not considered the salary of applicant and granted huge maintenance amount. Thereafter, he submits that the respondent is living separately without any sufficient reason, therefore, she is not entitled for any maintenance, thus, the impugned order is liable to be set aside.
7. Learned counsel for the respondent supported the impugned order.

8. Heard the learned counsels for both the parties and perused the material available on record.
9. Before Family Court it is undisputed that respondent is legally married wife of the applicant and out of their wedlock one son is born and applicant is working as Lab Technician in Medical College of Jagdalpur.
10. Before trial Court both parties examined their witnesses and the learned trial Court in impugned order from para 8-17 has appreciating both parties oral and documentary evidence and finds that respondent is living separately with sufficient cause and applicant is working as Lab Technician in Govt. Medical College and his salary is Rs. 18,639/- per month as per salary slip of April-2018 which is annexed as Annexure-C-1 and also have agricultural land of applicant's father and he is only son of his father, therefore applicant's earning is sufficient. These findings are based on proper appreciation of oral and documentary evidence. This Court do not find any illegality or irrationality in these findings.
11. Thus, there is no merit in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below, at the motion stage itself.

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