

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 264 of 2015**

1. Rampati W/o Shri Mukesh Kumar Kewat, Aged about 25 years, Caste Kewat,
 2. Ku. Pushpa Kewat D/o Shri Mukesh Kumar Kewat, aged about 2 years, through her Mother Rampati
- Both R/o Village Amadala, Police Station & Tahsil Lakhanpur, Distt. Sarguja (C.G.)

----Applicants**Versus**

Mukesh Kumar S/o Shri Laldev, Aged about 30 years, Caste Kewat R/o Bhathapara, Police Station Darima, Tahsil Ambikapur, Distt. Sarguja (C.G.).

---- Respondents

For Applicant	:	Mr. Rishi Rahul Soni, Advocate
For Respondents	:	None.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****01/02/2019**

1. This revision has been preferred against order dated 28/02/2015 passed by the Family Court, Ambikapur in Miscellaneous Criminal Case No. 99/2014, whereby the learned Family Court partly allowed the application under Section 125 of the Code of Criminal Procedure filed by the Applicants and granted monthly maintenance of Rs. 1000/- in favour of Applicant No.2. Thus, this revision has been filed by the Applicants.
2. Counsel for the Applicant submits that the Family Court has rejected the application under Section 125 of the Code of Criminal Procedure with regard to Applicant No. 1 only on the ground that she is able to

maintain herself and she has sufficient means for it. He further submits that though Applicant No.1 is working as labour, it is not possible for her to get work daily. For her livelihood and her children she is working this work. Contrary to this, the Respondent has sufficient means to maintain both of them. Therefore, the finding of the Family Court is not in accordance with the evidence adduced by the parties.

3. None for the Respondent, though the matter has been called out twice.
4. I have heard counsel for the Applicant and perused the record minutely to assess the correctness of the impugned order.
5. In her Court statement, Applicant No. 1 stated that she is residing in her maternal house and doing nothing, but her witnesses namely Bodhan Ram (Applicant Witness No.2) and Virodhan Ram Pando (Applicant Witness No.3) have stated that Applicant No. 1 works as labour. Only on this ground, the Family Court has rejected the application of Applicant No.1. There is no dispute on the point that Applicant No. 1 is residing separately with her daughter. For their livelihood she is working as labour, but it cannot be said that she is having regular source of income for their maintenance. There is no evidence with regard to that Applicant No. 1 get daily labour work, therefore, the finding of the Family Court that Applicant No. 1 has sufficient means to maintain herself is not in accordance with law. Thus, I am of the view that Applicant No. 1 is also entitled to get maintenance from her husband/Respondent.
6. From the evidence adduced by the parties, it is established that the

Respondent is working as Raj Mistri. He also admitted that he earns Rs. 150/- per day. From the evidence, it is clear that there is some agricultural land also in the family of the Respondent. Presently, the Respondent is residing with his second wife and one children who borne from Applicant No.1.

7. Looking to the responsibility, social and financial status and earning capacity of both the parties, it is ordered the Respondent shall now pay Rs. 1000/- as monthly maintenance to Applicant No.1 from today. The order of maintenance passed by the Family Court in respect of Applicant No. 2 is just and proper and requires no interference.
8. Accordingly, this revision is allowed to the extent indicated above.

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