

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.416 of 2015**

1. Smt. Tanuja Ratre, aged about 36 years, wife of Chetan Das Ratre,
 2. Minor Ku. Ankita Ratre, daughter of Chetan Das Ratre, aged about 3 years,
 3. Minor Ankit Ratre, aged about 2 years, son of Chetan Das Ratre,
- Applicants No.2 and 3 are minor, through legal guardian mother Smt. Tanuja Ratre,

All are residents of Janta Colony, Quarter No.32, Dr. Rajendra Nagar, Post Ravigram, Police Station Rajendra Nagar, Tahsil and District Raipur, Chhattisgarh

---- Applicants

versus

Chetan Das Ratre, aged about 37 years, son of late Uttamdas Ratre, resident of Village and Post Udaybhatha, Police Station Khairtal, Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh, at present posted as Assistant Grade-2, Office of District Agriculture Director, Bijapur, District Bijapur, Chhattisgarh

--- Respondent

For Applicants	:	Shri D.N Prajapati, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

3.1.2019

1. This is an admitted revision and is listed for final hearing.
2. The instant revision has been preferred against the order dated 6.4.2015 passed by the Family Court, Raipur in Criminal M.J.C. No.13 of 2011, whereby the Family Court has granted monthly maintenance of Rs.1,000/- each to Applicant No.2/daughter and Applicant No.3/son, total Rs.2,000/-, but has rejected the claim of Applicant No.1/wife for grant of maintenance.

3. Facts of the case, in brief, are that the Applicants filed an application under Section 125 of the Code of Criminal Procedure for grant of maintenance. It was pleaded that Applicant No.1 is legally wedded wife of the Respondent. Their marriage was solemnised 4 years ago. Out of their wedlock, Applicant No.2/daughter and Applicant No.3/son took birth. After sometime of the marriage, the Respondent started subjecting Applicant No.1/wife to cruelty. When she got pregnant, she came to her paternal house for delivery. After delivery, the Respondent took her back to his house. Thereafter, he started refusing to send her to her paternal house. He used to beat and abuse her. When she again got pregnant, he started giving her some medicine and due to which abortion took place. On 22.8.2009, he admitted her in Jagdalpur Hospital. At that time, she required blood. He called her brother to give her blood. Thereafter, he left her in the hospital and returned. Thereafter, she went to her paternal house along with her brother. She lodged a report and also called a social meeting. Then he took her back to his house and kept her for about 1 month, but he again started harassing her. Thereafter, she went to her paternal house and since then she is residing there. She is unable to maintain herself and her children. The Respondent works as an Assistant Grade-II in the Agriculture Department and gets monthly salary of Rs.15,000/-. He also owns 4-5 acres of agricultural land and from that land he earns Rs.50,000/- per year.
4. In his reply, the Respondent pleaded that at the time of first delivery, brother and father of Applicant No.1/wife, telling lie, had taken Applicant No.1/wife to their house. On getting her pregnant second time, Applicant No.1/wife herself, without telling him, was

taking a medicine for abortion. On getting her weak, when he took her to hospital, the doctor asked him to arrange blood for her. When he did not get blood of her group, he called her brother. Thereafter, when her brother was taking her to Raipur, at that time, both the children were with their paternal grand mother (*Dadi*) at Dantewada. Then he asked Applicant No.1/wife to stay along with the children at Dantewada for sometime. But, she did not agree and after quarreling and leaving both the children went along with her brother to Raipur. After holding of a social meeting, he inculcated her and took her back with him. They lived together for about 6 months. Thereafter, they went to Raipur at her paternal house. Thereafter, he was expelled out of their house after quarreling with him. Since Applicant No.1/wife is residing separately from him without any reasonable cause, she is not entitled to get any maintenance. He has no agricultural land and except the job he has no other source of income.

5. After taking evidence of both the parties on record, the Family Court, vide the impugned order dated 6.4.2015, has rejected the application for grant of maintenance so far as it related to Applicant No.1/wife on the ground that she is residing separately from the Respondent without any reasonable cause, but granted monthly maintenance of Rs.1,000/- to Applicant No.2/daughter and that of Rs.1,000/- to Applicant No.3/son, total Rs.2,000/-.
6. I have heard Learned Counsel appearing for the Applicants. No one appeared for the Respondent though Vakalatnama has been filed on his behalf. I have also perused the record with due care.

7. Applicant No.1/wife, including herself, examined as many as 4 witnesses in her favour. The Respondent examined himself and 2 other witnesses.
8. It is not in dispute that Applicant No.1/wife is legally wedded wife of the Respondent and Applicants No.2 and 3 are their legitimate children. It is also not in dispute that all the Applicants are residing separately from the Respondent. In her cross-examination, Applicant No.1/wife Smt. Tanuja Ratre (AW1) has admitted the fact that at the time of first delivery, she had come to her paternal house 1 month before the delivery and after delivery she stayed there for about 2 months. She has also admitted the fact that after her second delivery, when her abortion had taken place, after abortion, on third pregnancy, she fell ill. Then the Respondent took her to Jagdalpur hospital for her treatment. He got her treated there. Blood was required for her. When blood of her group was not found available, he called her brother. She has also admitted the fact that the Respondent got information of her discharge from her brother. At that time, her brother asked her to come along with him to Raipur. At that time, her both the children were with her mother-in-law at Dantewada. The Respondent asked her to come along with him to Dantewada saying that he after sometime will send her to Raipur. At that time, he was not ready to send her to Raipur and even on his being refused, she, leaving both the children, went along with her brother to Raipur. She has also admitted the fact that at the time of counselling also, the Respondent had agreed to take and keep her with him. She has also admitted that after a social meeting she and the Respondent lived together. But, 6 months thereafter, the Respondent had come

to Raipur to mark his presence in the counselling. At that time, the Respondent stayed at her paternal house at Raipur. She has denied the suggestion that the Respondent, after beating by her brother, was expelled out of their house at about 12 midnight. But, she has stated that the Respondent himself went out of their house at about 12 midnight. Without any reason why the Respondent/husband left her house at about 12 midnight, she has not explained the same. In these circumstances, it appears that the Respondent/husband was expelled out of their house at about 12 midnight after beating him. In her cross-examination, in paragraph 10, she has categorically stated that if the Respondent/husband wants to keep her with him, she does not want to live with him. From the above admissions made by her, it is clear that she herself, at her own will, is residing at her paternal house separately from the Respondent/husband without any reasonable cause. Therefore, the finding of the Family Court in this regard is in accordance with the evidence available on record.

9. As regards the children/Applicants No.2 and 3, the Family Court has granted each of them monthly maintenance of Rs.1,000/-, total Rs.2,000/-. It is established that the Respondent is employed as an Assistant Grade-II in the Agriculture Department. As pleaded by Applicant No.1/wife, monthly salary of the Respondent is Rs.15,000/-, but no salary-slip or any other document in support of the income of the Respondent has been filed either by Applicant No.1/wife or by the Respondent/husband nor has any of them stated in their Court statements anything in this regard. In his reply also, the Respondent/husband has not disclosed his monthly salary. In these circumstances, monthly salary of the Respondent

is considered to be Rs.15,000/-. Taking into consideration the above, the grant of monthly maintenance of Rs.1,000/- each to Applicants No.2 and 3 is on much lower side. Therefore, the monthly maintenance of Applicant No.2/daughter is enhanced from Rs.1,000/- to Rs.3,000/- and that of Applicant No.3/son is enhanced from Rs.1,000/- to Rs.2,000/-. These enhancements in the monthly maintenance are made effective from today itself. The claim of grant of monthly maintenance to Applicant No.1/wife is rejected.

10. Consequently, the instant revision is allowed in part to the extent indicated above.
11. Record of the Court below be sent back along with a copy of this order for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge