

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 625 of 2015****Order Reserved on 08/02/2019****Order delivered on 30/04/2019**

Parasram Verma S/o Khumanlal Verma, Aged about 35 years R/o Village Bhothi, Tehsil and District Durg (C.G.)

--- Applicant**Versus**

Smt. Triveni Verma W/o Parasram Verma, Aged about 30 years R/o Village Sukrikala, P.S. Bori, Tehsil and District Durg (C.G.)

---- Respondent

For Applicant	:	Mr. Rakesh Pandey, Advocate.
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel**CAV Order**

1. This revision has been filed by the Applicant against order dated 16/07/2015 passed in Miscellaneous Criminal Case No. 265/2012 by the First Additional Principal Judge, Family Court, Durg, whereby the learned Family Court has allowed the application under Section 125 of the Cr.P.C and granted monthly maintenance of Rs. 2500/- in favour of the Respondent.
2. Before the Family Court, an application under Section 125 of the Cr.P.C for grant of monthly maintenance of Rs. 5000/- has been filed by the Respondent/Wife with the averments that the marriage between the Applicant and the Respondent was solemnized in the year 1995 as per

Hindu custom. After some time of marriage, the Husband i.e. Applicant and his parents started to demand dowry and the Respondent/Wife was subjected to cruelty. Thereafter, the Respondent left the matrimonial house after about 6 months of marriage and since then, there is no relationship between the Applicant and the Respondent. It was further submitted that the Respondent is unable to maintain herself and the Applicant owned 10 acres of agricultural land and also do private work and get monthly income of Rs. 20000/-. It was further submitted that the Applicant has performed second marriage.

3. In his reply, the Applicant denied all the allegations made against him. He pleaded that after the marriage, the Respondent did not like him and therefore, she always used to go to her parental house without any reasonable cause. The Respondent herself did not want to live with him and finally on 05/07/1995 in a social meeting, the Respondent has given socially divorce to him. Since then, both are residing separately with their mutual consent. He further pleaded that since the Respondent is residing separately with her mutual consent, therefore, she is not entitled to get any maintenance from the Applicant. The Respondent works of stitching at Nagpur and get daily Rs. 900/- from the said work, and therefore, she is able to maintain herself.
4. Before the Family Court, both the parties have adduced their evidence. After recording their evidence and hearing their submission, the Family Court vide impugned order dated 16/07/2015 granted monthly maintenance of Rs. 2500/- in favour of the Respondent/Wife. Thus, this revision.

5. Counsel for the Applicant has submitted that both the parties have executed a deed of divorce vide Ex.-D-1 on 05/07/1999. Since there is no relation between both of them, therefore, the Respondent/Wife is not entitled to claim any maintenance. It is further submitted that since both the parties are residing separately through their mutual consent, therefore, the Respondent is not entitled to get any maintenance.
6. No one appears on behalf of the Respondent, even when the matter is called out twice and thrice in the preceding days of the week.
7. I have heard counsel for the Applicant and perused to record to assess the correctness of the impugned order.
8. There is no dispute on the point that the marriage between the Applicant and the Respondent was solemnized in the year 1995 and thereafter the Respondent resided with the Applicant for about 6 months. Thereafter, the Respondent is residing separately. There is also no dispute on the point that present the Applicant/Husband has performed second marriage with one Kunti and out of their new wedlock, there are two children.
9. On 05/07/1999 vide Ex.D-1, a divorce has been taken place between the Applicant and the Respondent. Though the Respondent/Wife and her father have denied their signature on the deed of divorce, both have admitted the fact that one deed of this type was executed on plane paper. From the above admission, it is clear that a deed of this type was executed, but no legal divorce has been taken place between both of them. Moreover, there is no evidence available on record, which established that there is any rule/custom in their community to take divorce by executing

such type of deed. For the sake of argument, if it is admitted that vide Ex.D-1, both have taken divorce, yet being a divorced wife she is entitled to get maintenance from her divorced husband. From the evidence available on record, it is well established that without taking any legal divorce from the Respondent, the Applicant has performed second marriage, therefore, on the basis of this fact also, the Respondent has sufficient cause to reside separately from the Applicant. Thus, the finding of the learned Family Court in this regard is in accordance with evidence available on record and in accordance with law and the Family Court has rightly granted monthly maintenance in favour of the Respondent/Wife.

10. For the foregoing reasons, I do not find any merit in this revision. The revision is dismissed.

(Arvind Singh Chandel)
Judge