

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved On 04.07.2019****Order Delivered On 18.07.2019****CRR No. 722 of 2015**

- Sanjay Singh, aged about 30 years, son of Subran Singh, Caste- Kanwar, resident of Dumarmuda, Post Office- Gopalpur, Police Station – Darri, District- Korba (C.G.), occupation service, 10th Battalion, Chhattisgarh Arms Force, Surguja, at present resident of Trikon Chowk, Kedarpur (House of Tiduram Kushwaha), Police Station, Post and Tahsil – Ambikapur, District Surguja (C.G.)

---- Applicant**Versus**

- Smt. Gajyanti Paikra wife of Sanjay Singh, daughter of Hem Singh, aged about 24 years, caste- Kanwar, resident of village- Dhurena, Police Station and Post- Deepka, District- Korba (C.G.)

---- Respondent

For Applicant	:	Mr. D. N. Prajapati, Advocate
For Respondent	:	Ms. Laxmin Kashyap, Advocate

Hon'ble Smt. Justice Rajani Dubey**C.A.V. Order****18.07.2019**

1. The applicant has preferred this revision against the order dated 06.08.2015 passed by Judge, Family Court (Camp Court), Katghora, District – Korba (C.G.) in M.J.C. No. 92/2014 allowing the application filed by the respondent under Section 125 of the Code of Criminal Procedure.

2. Brief facts of the case are that marriage of non-applicant was solemnized with applicant on 20.04.2011 and after marriage

both were residing at Ambikapur. Further case is that immediately after her marriage, she was subjected to cruelty by her husband (applicant) and her in-laws for bringing less dowry. It is further alleged that in her matrimonial house she was in pathetic condition, therefore, she came to her parents' house on 13.11.2013, and, started living separately. She is not in a position to maintain herself. It has been also alleged that applicant/husband is Assistant Sub-Inspector and earning Rs. 25,000/- per month. Therefore, she must be given 5,000/- per month for the maintenance. The Family Court has ordered to give Rs. 5,000/- per month to the respondent. Hence, this revision petition.

3. Counsel for the applicant submits that impugned order dated 06.08.2015 is bad in law being perverse and erroneous and contrary to the facts and circumstances of the present case, therefore, liable to be set-aside. The learned Family Court failed to appreciate that the respondent herself left the house of applicant without there being any reasonable cause and she did not return in the house of applicant despite several efforts made by him (applicant). The respondent had refused to live with the applicant before the counseling proceeding conducted by the 'Parivar Paramarsh Kendra, Korba'. The learned Family court failed to appreciate that respondent filed maintenance application only after receiving summons of proceedings under Section 9 of Hindu Marriage Act filed by the applicant. The applicant has categorically expressed before the "Parivar Paramarsh Kendra", Korba, that he is ready to keep the respondent with him on any condition, but the respondent did not agree for the same. The learned Family Court failed to appreciate that the Family Court, Ambikapur has passed the judgment on 05.08.2015 whereby directed the respondent to reconstitute conjugal right with the society of applicant. He also argued that the learned Family Court also

failed to appreciate the evidence and documents produced before the Court in its true perspective. The learned Family Court has awarded maintenance on higher side, therefore, the impugned order deserves to be set-aside by this Court. It has been argued by learned counsel for the applicant that the present is a case where the applicant had tried his level best to keep the respondent happy but she was not interested to live with him. He submits that now the applicant is also not interested to keep her with him and the decree of divorce may be passed in favour of husband.

5. On the other hand, supporting the impugned judgment, learned counsel for the respondent submits that the Court below was fully justified in awarding the maintenance.

6. Heard learned counsel for the parties and perused the material on record including the impugned order.

7. From the evidence on record, what emerges is that, the respondent is unable to maintain herself. She is living separately for sufficient reasons that is her subjection to cruelty by her husband and moreover, as categorically stated by learned counsel for the applicant before this Court is that the husband is not interested to keep her with him and divorce decree granted in favour of husband by the competent Court.

8. In his Court statement the applicant has denied all the allegations leveled by the wife.

9. The applicant is at present working as Assistant Sub-Inspector. From the material available on record, it appears that on 04.08.2015 when the case was taken up by the Court below, there was no representation on behalf of applicant, and, therefore, the Court below proceeded ex-parte against him and the next date was given as 06.08.2015 and on that day, the Court below

has passed the order directing the applicant/husband to pay Rs. 5,000/- per month as maintenance to the respondent. The Court below was fully justified in proceeding ex-parte and awarding maintenance in favour of respondent.

10. In view of the above, this Court is of the considered opinion that the order dated 06.08.2015 passed by the Court below being fully justified, do not call for any interference in revision petition.

11. Accordingly, this revision has not substantiated and it is hereby dismissed.

Sd/-
(Rajani Dubey)
JUDGE