

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 394 of 2016**

Lakhnu S/o Tetku Singh Verma, aged about 24 years R/o Bahunawagaon, Police Station and Tehsil Bemetara, Civil and Revenu District Bemetara, Chhattisgarh (earlier District Durg)

---- Applicant**Versus**

Gayatri W/o Lakhnu, aged about 22 years R/o Diprapara, Bhilai-3, Police Station Bhilai-3, Tehsil Patan, District Durg, Chhattisgarh

---- Respondents

For Applicant	:	Mr. Amit Sahu, Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**25/03/2019**

1. This revision has been preferred against order dated 05/03/2016 passed in Miscellaneous Criminal Case No. 61/2016 by the First Additional Principle Judge, Family Court Durg, whereby the learned Family Court has granted monthly maintenance of Rs. 1500/- in favour of the Respondent.
2. The Respondent/Wife filed an application under Section 125 of the Cr.P.C with the averment that her marriage with the Applicant was solemnized in the year 2005. It was pleaded by her that after some time of marriage, the Applicant/Husband started to torture her for demand of dowry. Later on, mother of the Applicant left her to her paternal house. Thereafter, she filed an application under Section 125

of the Cr.P.C before the Family Court and during pendency of that application, the Husband, on an assurance that he will keep her well, took back the Wife with him, but thereafter again he beaten her. On 04/03/2011, the Applicant/Husband made a call to her paternal house and told them to take back the Respondent. On 15/03/2011, father of the Wife took her back to his house. Since then she is residing separately. It was further pleaded that she is unable to maintain herself. The Applicant owned 14-15 acres of land and earning Rs. 6-7 lakhs yearly.

3. The Applicant herein denied all the allegations made against him. It was pleaded by him that the Respondent/Wife is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance.
4. Before the Family Court, the Respondent/Wife examined herself as Applicant Witness No. 1 and also examined her father Mohit Ram as Applicant Witness No.2. The Applicant/Husband examined himself as Non-Applicant Witness No. 1 and also examined his father as Non-Applicant Witness No. 2. Both the parties have submitted certain documents before the Family Court.
5. After recording the evidence and hearing submission of both the parties, the learned Family Court vide impugned order dated 05/03/2016 granted monthly maintenance of Rs. 1500/- in favour of the Respondent. Thus, this revision.
6. Counsel for the Applicant submits that the learned Family Court has

failed to consider that the Respondent/Wife is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance. He further submits that the Family Court has also not considered that the Applicant still wants to keep his wife with him, but the Respondent/Wife refused to go with the Applicant. In these circumstances, she is not entitled to get any maintenance.

7. No one appears on behalf of the Respondent, even when the matter is called out twice.
8. I have heard counsel for the Applicant and perused the record minutely to assess the correctness of the impugned order.
9. In her statement, the Respondent/Wife has categorically stated that she was subjected to cruelty for demand of dowry by the Applicant/Husband. It was also stated that a report was made by her and a case under Section 498-A was registered against the Applicant. Though the Applicant and his family members have acquitted in the said criminal case, the acquittal was only on the ground that the prosecution has failed to prove its case beyond all reasonable doubts. Only on the basis of acquittal in the said case, the Applicant does not deserve any benefit in this case. The above statement of the Respondent/Wife has been corroborated by his father. Moreover, the Applicant has not disclosed any reason that why the Respondent is residing separately without any reasonable cause. The Applicant also admitted the fact that on 15/03/2011, father of the Respondent came to his village and a social meeting was conducted there, and the Respondent went with her father, however, there is no evidence that

thereafter the Applicant/Husband has made any effort to bring his wife back or he has proceeded legally or through any social meeting to bring his wife back.

10. Looking to the above facts and evidence which is available on record, it is well established that the Respondent/Wife is residing separately due to ill treatment and cruelty given by the Applicant. Therefore, the finding of the Family Court in this regard is in accordance with the evidence available on record.
11. Consequently, the Revision has no merit and the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge