

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 934 of 2015****Order Reserved on 14/02/2019****Order delivered on 02/05/2019**

Smt. Madhuri Chandra, aged about 23 years W/o Harisharan R/o at present Village Thathari, P.S. Baradwar, Tahsil Jaijaipur, District Janjgir-Champa (C.G.)

**--- Applicant****Versus**

Harisharan Chandra, aged about 26 years S/o Raj Kumar Chandra, Occupation Agriculturist and Service, R/o Village Baderaveli, P.S. and Tahsil Malkharouda, District Jajgir-Champa (C.G.).

**---- Respondent**


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| For Applicant  | : | Mr. CK Navrang, Advocate.     |
| For Respondent | : | Ms. K. Tripathi Rao, Advocate |

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

1. This Revision has been filed by the Applicant against order dated 09/09/2015 passed in MJC No. 09/2015 by the Judge, Family Court, District Janjgir-Champa, whereby the Family Court has dismissed the application under Section 125 of the Cr.P.C of the Applicant.
2. Facts of the case are that before the Family Court, the Applicant herein preferred an application for grant of maintenance under Section 125 of the Cr.P.C with the averments that her marriage was solemnized with the Respondent on 14/04/2012. At the time of marriage, the parents of the Applicant had given golden, silver ornaments and other articles. After some time of marriage, the Respondent and her family member demanded

a car and amount of Rs. 1 lakh from her parents. The Respondent used to assault her at the instance of his parents. He also used to say the Applicant to go out as he would marry with another lady. A social meeting was also called where the Respondent and his family members were convinced, but their conduct did not change. In the year 2013, the Applicant was left at her paternal house after snatching all her jeweleries. The Respondent did not come to take her and also refused to take her back. A report was made in this regard. It was also pleaded that by her that she is living in her paternal house. She is unable to maintain herself. The Respondent has owned some agricultural land at village Baderaveli. The Respondent also works in a company and getting monthly salary of Rs. 15000/-.

3. In his reply, the Respondent denied all the allegations made against him. It was pleaded by him that the Applicant herself did not want to reside in matrimonial house and without any reasonable cause, she is residing in her paternal house. It was further pleaded that a false report has been lodged regarding demand of dowry. He has not owned any agricultural land and he is dependent on his father. Since the Applicant is residing separately without any reasonable cause, therefore she is not entitled to get any maintenance.
4. After recording the evidence and hearing their submission, the learned Family Court vide order dated 09/09/2015 dismissed the application of the Applicant on the ground that she is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance.
5. Counsel for the Applicant submits that before the Family Court, the

Applicant has categorically deposed that after marriage, the respondent used to beat her in drunken condition. He also used to demand dowry. Once, he has left her on the way of road. This statement of the Applicant has been supported by other witnesses. He further submits that in a social meeting also, the Respondent and his family members were convinced, but they did not change their behavior, therefore, the Applicant is residing separately with sufficient cause, but inspite of the said fact, the Family Court has rejected her application, which is bad in law.

6. Counsel for the Respondent has supported the impugned order.
7. I have heard counsel for the parties and perused the records.
8. Before the Family Court, the Applicant examined herself as Applicant Witness No. 1, her father Parasram Applicant Witness No. 2, Shobharam as Applicant Witness No. 3 and Balram Singh as Applicant Witness No. 4. The Respondent examined himself as Non-Applicant Witness No. 1, his brother Rajkumar Chandra as Non-Applicant Witness No. 2, his uncle Chatram as Non-Applicant Witness No.3 and Dushyant Kumar as Non-Applicant Witness No. 4.
9. There is no dispute on the point that the marriage between the parties was solemnized on 14/04/2012. In her court statement, the Applicant has categorically stated that the Respondent did not want to keep her with him and he used to beat her always on the pretext that she had brought less dowry. The Respondent also used to provide her less food and meals. The above statement of the Applicant has not been rebutted during her cross examination. The Applicant also stated that once the Respondent was taking her on motor-cycle and after having drink, he left her on the way.

This statement of the Applicant has also not been rebutted during her cross-examination. Applicant Witness No. 2 Parasram has supported the statement of the Applicant and deposed that the Respondent after beating the Applicant, had left her at her paternal house. Applicant Witness No. 2, Parasram, Applicant Witness No. 3, Shobharam and Applicant Witness No. 4 Balram Singh have also deposed that a social meeting was called wherein the Respondent and his family members were convinced. The Respondent himself admitted that once he was taking the applicant on motor-cycle and on the way when his motor-cycle got some malfunction, then the Applicant called her father and went with her father and brother. Since then, she did not return. He further pleaded that when the social meeting was called, the Applicant denied going with the Respondent. Though, Applicant Witness No. 3, Sobharam also deposed that in the social meeting, the Applicant refused to go with the Respondent, but he categorically stated that due to behavior of the Respondent, the Applicant denied going with him. This witness also stated that in the social meeting a condition was put before the Respondent to leave his drinking and then the Applicant would be sent with him. The above statement of this witness has also not been rebutted. Father of the Respondent has admitted in his cross-examination that the Respondent used to drink and on this matter, a quarrel took place.

10. From the above evidence which is available on record, it is clear that after the marriage, the Respondent used to drink and did not behave good with the Applicant. He also used to beat her. It is also established that once the Respondent left the Applicant on the way. Moreover, it is also clear that he never made any effort or moved legally to bring his wife back. Though a

social meeting was conducted wherein the Applicant refused to go with him, it was done due to behavior of the Respondent, therefore, it cannot be said that she has voluntarily refused to reside with the Respondent. Thus, the finding of the Family Court that the Applicant is residing separately without any reasonable cause is not in accordance with evidence available on record.

11. Since, the Applicant is legally wedded wife of the Respondent and is residing separately, and there is sufficient cause that she is unable to maintain herself, therefore, she is entitled to get maintenance.
12. With regard to maintenance amount, it was pleaded that the Respondent is having 8-9 acres of land, but no documentary evidence has been submitted in this regard. Both the Applicant and her witness Parasram have categorically stated that presently the Respondent is having a Maruti Van, by which, he earns around Rs. 15000-20000/-. The Respondent has not denied the fact that he is having a Maruti van, but there is no cogent evidence that he earns Rs. 15000-20000/- from the said van. Father of the Respondent Rajkumar has stated that the respondent works as labour. If this fact is admitted and he is having a Van, on this basis, it can be presume that he earns around Rs. 8-10 thousand. Thus, looking to the earning and social status of both the parties, it is ordered that the Respondent shall now pay monthly maintenance of Rs. 3000/- to the Applicant from today.
13. Accordingly, the revision is allowed to the extent indicated above.

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