

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1122 of 2015**

- Satyendra Kesharwani, aged about 33 years, S/o Mahendra Kesharwani, By Caste Baniya, R/o Bajrang Chowk, Ratakar Basti, Tahsil and District Korba

----Petitioner**Versus**

1. Smt. Archana Kesharwani, aged about 28 years, W/o Satyendra Kesharwani.
2. Ku. Ichha Kesharwani, aged about 2 & ½ year, being minor through natural guardian mother Smt. Archana Kesharwani, aged about 28 years, W/o Satyendra Kesharwani

Both at present R/o C/o Anand Kumar Gupta, R/o A.B. 1073/1094, NTPC, Yamuna Vihar, Tahsil Katghora, District Korba (C.G.)

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate.
For Respondents	:	Shri J.A. Lohani, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****12/07/2019**

01. Challenge in the present revision filed under Section 19 (4) of the Family Courts Act read with Section 397/401 of the code of Criminal Procedure is to the order dated 15.09.2015 passed by the Judge, Family Court, Korba, in M.J.C. No.159/2014 granting Rs.2,500/- to respondent No.1 and Rs.1,500/- to respondent No.2 totaling Rs.4,000/- per month as maintenance.

02. It is admitted facts before the trial Court that the marriage of applicant was solemnized with respondent No.1 on 07.05.2011 according to hindu customs and out of wedlock the couple is having a female child Ku. Iccha Kesharwani (R-2) aged 2 ½ years.

03. The respondent No.-1 wife herein filed an application under Section 125 of Code of Criminal Procedure before the learned trial Court on the ground that the applicant-husband started harassing her for bringing less dowry and tortured her mentally and physically. It was further alleged that on 28.02.2012, the applicant himself sent her to parental house and even after birth of respondent No.2 on 07.05.2012, the applicant husband did not bother to visit her and to take them with him. It has been also alleged that she is not in a position to maintain herself. The applicant is having job in Prakash Sponge Iron, Champa and drawing salary of Rs.25,000/- per month. In addition to this, the applicant has additional income from agricultural land. Therefore, she may be given Rs.12,000/- per month for the maintenance. The Family Court has ordered to give Rs. 2,500/- to respondent No.1 and Rs.1500/- to respondent No.2. Hence, this revision petition.

04. Learned counsel for the applicant submits that the trial Court without considering the case properly and without application of mind, granted maintenance of Rs.2,500/- to respondent No.1 and Rs.1,500/- to respondent No.2. Learned counsel further submits that respondent No.1-wife admits that

she went to paternal house of her own. The applicant is ready to keep the respondent with him but due to adamant attitude of the respondent No.1, she does not want to live with the applicant. He would also submit that the learned trial Court did not appreciate the evidence of the applicant and, therefore, the order of learned trial Court being unsustainable in law is liable to be rejected.

05. On the other hand, learned counsel for respondents supported the impugned order passed by the learned trial Court.

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

07. From the evidence on record, in particular, para 25 of evidence Archana Kesharwani (AW/1), which reveals that she has written something about one Ajay Kashyap in diary regarding her love affair, which she denied in all aspect stating that the applicant husband had compelled her to write so. The learned trial Court, in para 13 of its order, has examined this aspect in detail and found that applicant husband suspecting fidelity of non-applicant wife, there is dispute between them on this account and the trial Court also found sufficient ground for separation of non-applicant wife. The amount so awarded by the learned trial does not appear to be on higher side. The Court below was fully justified in awarding maintenance in favour of respondents.

08. In view of the above, this Court is of the considered

opinion that the order dated 15.09.2015 passed by the Court below being fully justified, do not call for any interference in revision petition.

09. Accordingly, this revision has no substance and it is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE

Vijay