

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Order reserved on 30.7.2019****Order delivered on 11.9.2019****CRR No. 1030 of 2018**

- Santosh Sahu S/o Late Harprasad Sahu Aged About 40 Years Occupation Accountant, Present R/o Pankaj Medical Agency, Telipara, Bilaspur, Chhattisgarh., Permanent Address - Village Mohra, P.S. And Tahsil Sipat, District - Bilaspur, Chhattisgarh

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

1. Smt. Pramila Sahu W/o Santosh Sahu Aged About 38 Years Occupation House Wife,
  2. Ritesh Sahu S/o Santosh Sahu Aged About 16 Years Occupation Study,
  3. Ku. Pooja Sahu D/o Santosh Sahu Aged About 14 Years Occupation Study,
  4. Ku. Riya Sahu D/o Santosh Sahu Aged About 12 Years Occupation Study, respondents 2 to 4 are Minor Through Natural Guardian Mother Smt. Pramila Sahu, Aged About 38 Years, W/o Santosh Sahu,
- All R/o In Front Of D.L.S. Collage, Khamtarai Bilaspur, P.S. Sarkanda, Tahsil And District - Bilaspur, Chhattisgarh.

**----Respondents**


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| For Applicant   | : Shri C. Jayant K. Rao, Advocate |
| For Respondents | : Shri Sameer Singh, Advocate     |

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**Hon'ble Smt. Justice Rajani Dubey****CAV Order**

1. Heard on admission.
2. This revision is directed against the order dated 03.08.2018 passed by the Judge, Family Court, Bilaspur, (CG) in Misc. Cr. Case No. 779/2017, whereby the Judge Family Court has granted monthly maintenance of Rs.2000/- to respondent No.1, Rs.1500/- to respondent No.2, Rs.1500/- to Respondent No.3 and Rs.1500/- to respondent No.4 respectively on their application filed under Section 125 Cr.P.C.

3. Facts of the case are that the respondents, who are wife and children of the applicant, filed an application under Section 125 Cr.P.C. for grant of maintenance. It is an admitted fact that marriage between the applicant and respondent No.1 was solemnized 18 years back as per Hindu customs and rituals and respondents 2 to 4 are their son and daughters. The respondents are unable to maintain themselves as the applicant has left them without any reason. It is pleaded that the applicant is Accountant in a Medical Store and his earning is Rs.50,000/- per month and he is in relation with another lady and is living with her, therefore, the respondents filed an application for grant of maintenance.
4. Denying the allegations the applicant submits that respondent No.1 misbehaved him and his earning is very less. The respondents are living in his(applicant) house and they are getting rent of Rs.11,300/- per month, which is sufficient for them; he has responsibility of his mother and paying Rs.2000/- as repayment of loan.
5. Having heard learned counsel for the parties and considered the material on record, the learned Family Court granted maintenance of Rs.2000/- per month to respondent No.1- wife, Rs.1500/- to respondent No.2- son, Rs.1500/- to respondent No.3(daughter) and Rs.1500/- to respondent No.4(another daughter) and that order is under challenge in this revision petition.

6. Learned counsel for the applicant submits that the learned family court has misconceived the law and the facts involved in the case while allowing the application for grant of maintenance in favour of the respondents. The applicant is not having any source of income and the Family Court without any basis has awarded maintenance of Rs.6500/-per month. Respondent No.1 is keeping the rental income of the house and in such a situation, the applicant who is earning Rs.7000/- per month is unable to pay Rs.6500/- to the respondents, therefore, the order passed by the Family Court is arbitrary and contrary to law and the same is liable to be set aside.
7. Learned counsel for the respondents supported the impugned order and submitted that the order passed by the family court is just and proper and requires no interference.
8. I have heard learned counsel for the parties and perused the material available on record.
9. This is an admitted fact that the applicant is living separately from the respondents. The Family Court has held that the applicant has admitted in para 16 of his cross-examination that he has agricultural land on his name in village Mohra and in village Khamtarai, Bilaspur he has 3 dismal land on his name on which there is a double story building and he let the house on rent. The applicant did not produce any evidence regarding the house rented by respondent No.1, which she is keeping. The family court has relied on **1990 Cri. L.J.830(All), Mithlesh Kumari v.**

**Bindhwasani** and allowed the application of the respondents, granting total maintenance of Rs.6500/- per month. The learned Family Judge has rightly held that respondent No.1 is not living with the applicant. As regards quantum of maintenance is concerned, it cannot be said to be disproportionate or unreasonable looking to the present price index. The order passed by the Family Court does not suffer any irregularity or illegality and the same is not liable to be interfered with. Thus, the revision is dismissed at the admission stage itself.

- 10.** Consequently, I.A.No.1/2018 for grant of stay is also dismissed.

**Sd/**

**(Rajani Dubey)**  
**JUDGE**