

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 980 of 2016**

1. Smt. Rinki Sahu W/o Vinod Sahu Aged About 22 Years
2. Raja Sahu S/o Vinod Sahu Aged About 4 Years
3. Satyam Sahu S/o Vinod Sahu Aged About 1 Month

Applicants 2 and 3 are Minor Through Natural Guardian Mother
Namely Smt. Rinki Sahu W/o Vinod Sahu, Aged About 22
Years,

All are R/o Village Jhandi, Police Station Boramdev, Present
Address Village Sheetalpani, Police Station Chilphi, Civil And
Revenue District Kabirdham, Chhattisgarh.

---- Applicants**Versus**

- Vinod Sahu S/o Shriram (wrongly mentioned as Ram in the order
sheet) Sahu Aged About 25 Years R/o Village Jhandi, Police Station
Boramdev, District Kabirdham, Chhattisgarh.

----Respondent

For Applicants	: Smt. Indira Tripathi, Advocate
For Respondent	: None though served

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05.8.2019**

1. Heard on admission.
2. This revision is directed against the order dated 28.9.2016, passed
by the Judge, Family Court, Kabirdham (Kawardha) (CG) in Misc.
Cr. Case No.120/2016, whereby, the Judge Family Court has partly
allowed the application filed by the applicants under Section 125
Cr.P.C. and rejected the application filed on behalf of applicant
No.1 and granted maintenance of Rs.800/- each to applicants 2
and 3.

3. Facts of the case are that the applicants filed an application under Section 125 Cr.P.C. for grant of maintenance against the respondent. It is an admitted fact that applicant No.1 was married to the respondent on 20.5.2015 and out of their wedlock, applicants No. 2 and 3 have born. After birth of the applicant 2, the respondent and his family members started treating the applicant No.1 with cruelty, for which a report under Section 498A/ 34 was lodged by her in Police Station Bhoramdev. Applicant No.1, to save her marital life once returned to the matrimonial house, but there was no change in the behaviour of the applicant and his family members. They again tortured and ousted her from house. Thereafter, applicant No.3 has born. The applicants are unable to maintain themselves, therefore, they pray for grant of maintenance of Rs.10,000/- per month to each of them.
4. Denying the allegations, the respondent pleaded that applicant No.1 is in Govt. job and her earning is Rs.5,000/- per month and she left the house at her own will. He pleaded that he has also filed an application for restitution of conjugal rights.
5. The learned Family Court after hearing counsel for both the parties and the evidence on record, rejected the application filed on behalf of applicant No.1, wife and granted maintenance of Rs.800/- per month to applicants 2 and 3. Hence, this revision.
6. Learned counsel for the applicants submits that the order passed by the learned Family Court is perverse and contrary to law. It is clear from the evidence that applicant No.1 was working till August

2015 and after that she is not in service. The family court has failed to appreciate that applicant No.2 is studying in School and his yearly fees is Rs.15,000/-, therefore, the maintenance of Rs.800/- is very low. He prays that the maintenance granted to applicants 2 and 3 may be enhanced.

7. None for the respondent though served.
8. I have heard learned counsel for the applicants and perused the record.
9. During the pendency of this revision, the applicants have filed various documents, supported with affidavit. The documents are related to criminal proceeding of the parties and service of applicant No.1. These documents are subject matter of examination to reach at a right conclusion, therefore, the same may be taken on record. Learned counsel for the applicants also contended that the applicant has obtained these documents after passing of the impugned order, therefore, they cannot be produced before the family court.
10. The documents are related to dispute between the parties, more particularly, related to service of the applicant No.,1(wife), which were not considered by the Family Court as the same have been obtained after passing of the impugned order. Since this is a dispute of family matter as also maintenance, these documents should first be examined by the Family Court.
11. On due consideration, the impugned order dated 28.9.2016 is set aside. The documents filed by the applicants are taken on record

as an additional evidence. The matter is remitted back to the family Court. The Family Court, after production of the said documents, shall proceed to hear the case and decide it afresh, in accordance with law. The Family Court shall grant time to both the parties to amend their pleadings and to produce any additional evidence regarding the alleged documents before the proceedings, if they so desire.

12. It is made clear here that this Court neither touched upon nor expressed any opinion on the merits of the case and only production of additional evidence has been permitted. The Family Court shall be free to form its own opinion afresh on all the questions of facts and law arising for decision in the case.
13. The parties, through their respective counsel, are directed to appear before the Family Court on **30.9.2019**.
14. The revision stands disposed of. **Sd/**

(Rajani Dubey)
JUDGE