

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1110 of 2017

1. Smt. Nandini Bai Sahu, W/o Daman Sahu, aged about 21 Years, R/o Village-Temri, Police-Station-Ghumka Presently, R/o Borai, Police Station-Chhuikhadan, District-Rajnandgaon, Chhattisgarh.
2. Minor Pukraj Sahu, S/o Daman Sahu, Aged About 6 Month Represented Through Applicant No. 1 Mother-Nandani Bai Sahu.

---- Applicants

Versus

1. Daman Lal Sahu, S/o Dheerpal Sahu, Aged About 26 Years R/o Village Temri Police-Station-Ghumka, District-Rajnandgaon, Chhattisgarh,

---- Respondent

For applicants	:	Mr. Abhishek Sharma Advocate.
For Respondent	:	Mr. S.S. Baghel, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

15/11/2019

Heard.

1. This revision petition has been brought being aggrieved by the order dated 23.8.2017 passed by the Family Court, Link Court, Khairagarh, District- Rajnandgaon in MJC No.30/2016, in which it was held that applicant No.1 is not entitled for maintenance and Rs.1,000/- monthly maintenance was granted to applicant No.2.
2. Applicants filed an application under Section 125 of CrPC stating, that applicant No.1 was married to respondent in the year 2014, and out of this wedlock, applicant No.2 was born. It is submitted that respondent after consuming the liquor used to quarrel and beat applicant No.1 on frequent occasions. Respondent also used to torture applicant No.1 saying that she has come from a poor family and she has not brought

any dowry. Ultimately, the applicants were dragged out from the house of the respondent and they have taken shelter in the parental house of applicant No.1. It was stated, that respondent, who is skilled worker and earning Rs.25,000/- per month, has neglected and refused to maintain the applicants. On the aforesaid basis, it was prayed that maintenance of Rs.5,000/- per month be granted to the applicants. Respondent filed his reply and admitted the marriage and birth of applicant No.2, but denied all other averments made by the applicants and submits, that it was applicant No.1 herself, who does not want to live in her matrimonial home since the beginning and ultimately she left her matrimonial home and started residing with her parents. He has also denied the statement of applicant No.1 regarding his financial resources and prayed for rejection of application.

3. The learned Family Court after completion of proceeding has passed the impugned order, in which, it was held that the respondent had tortured and beaten the applicant No.1, however, it was observed that the applicant No.1 had totally denied to go back to her matrimonial house when proposal was given to her in the village meeting and even when the Court itself asked her. Therefore, it was held that as the applicant No.1 is residing separately without sufficient reason, therefore, she is not entitled for maintenance. However, applicant No.2 was found entitled for the maintenance and order was passed accordingly.
4. It is submitted by the counsel for applicants, that the learned Family Judge has not properly appreciated the evidence of the applicants and erroneously held that applicant No.1 is living separately without sufficient reason. Applicant No.1 had all entitlements for grant of maintenance. It is also submitted that the maintenance granted to applicant No.2 is very much on lower side, which also needs to be enhanced suitably.
5. Learned counsel for respondent opposed the submissions so made and submits, that no error has been committed by the learned Family Judge in passing the impugned order and there is evidence present to show that applicant No.1 is residing separately without sufficient reason which is a clear ground, as provided under Section 125 (4) of

CrPC, to deny maintenance to applicant No.1-wife. It is also submitted that the respondent is not a skilled worker and he is earning only Rs.40-50/- per day by doing labor work. Therefore, the prayer made in this revision petition cannot be entertained.

6. Perused the evidence present in record of the learned Family Court. Applicant No.1, who was examined as AW-1, has stated that just after one month of the marriage, the respondent used to come in drunken condition and then used to quarrel and beat her. Applicant No.1 then complained about this to the parents of the respondent and also to her own parents but no solution could be found out. She has further stated that on 14.3.2016 when she was engaged in household work, at that time the respondent, without any reason, thrashed her with a club saying that she has not brought any dowry and also ousted her from his home and since then she is residing in her parental house. In cross examination, she has admitted that when she made complaint to the Woman Cell, the respondent had given in writing that he will take good care of the applicant No.1 to which she had not agreed. She has also stated that when the parents of respondent had been to the village of her parental house and called a meeting, she has very clearly said that she does not want to go back and live with respondent. Holu Ram AW-2 is father of the applicant No.1 and he has given statement on the basis of the information given by his daughter. Similar is the statement of Arun AW-3.
7. Respondent Keju Ram NAW-1 has stated that the applicant No.1 was not satisfied with the status of her matrimonial home and she used to say that her parental house is financially better and therefore she does not want to go back to her matrimonial home. He has also stated the applicant No.1 has without any reason left her matrimonial home and started living in her parental house. The efforts to bring her back made by the respondents failed. In cross-examination, he has stated that some dispute arose about 1 or 2 months after the marriage when the respondent and applicant No.1 both came to the village-Temri, place of residence of father of applicant No.1, where a compromise took place and then the applicant No.1 came back to reside in her matrimonial home. He has denied all the suggestions given by the applicant side. Dheerpal Sahu NAW-2, Sudarshan Ram NAW-3 have also made

similar statements.

8. After perusing the evidence brought by both the sides, it is found that the learned Family Court has not committed any error in appreciating and coming to conclusion that applicant No.1 is living separately from her husband/respondent without any sufficient reason. As it is found that the applicant No.1 is very much adamant for not going back to her matrimonial home even though the respondent has tried to bring her back by giving assurances in the meeting of village elders. Apart from that both the parties were urged by this Court to enter into compromise which has failed only for the reason that the applicant No.1 is not willing to go back to her matrimonial home at any cost. Therefore, it is a fit case to hold that the ground, as provided under Section 124 of CrPC to deny maintenance to a wife, is available in the present case, therefore, rejection of prayer of applicant No.1 for grant of maintenance by the Court below cannot be faulted with and the same is accordingly maintained. However, the order granting maintenance to applicant No.2 appears to be very much on the lower side and it requires proper enhancement. Hence, this revision petition for granting maintenance for applicant No.1 is dismissed. However, the revision petition for enhancement of maintenance to applicant No.2 is allowed and it is ordered that the respondent shall make payment of Rs.200/- 500/- per month to applicant No.2 for his maintenance till he attains majority.

Sd/-

(Rajendra Chandra Singh Samant)
Judge