

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 1125 of 2018**

- Rajesh Sahu, S/o Shri Maharaji Lal Sahu, aged about 37 years, (mentioned as 33 years in impugned order) R/o House No. MIG-28, Sector - 3, Krishna Kunj, Deendayal Upadhaya Nagar, Raipur, Tehsil & District Raipur (C.G.)

----Petitioner**Versus**

- Smt. Richa Sahu, W/o Rajesh Sahu, aged about 32 years, (mentioned as 28 years in impugned order)
(Applicant No. 1 before Court below)
- Ku. Harshita Sahu, D/o Rajesh Sahu, aged about 05 years, (mentioned as 01 years in impugned order)
(Applicant No.2 before Court below)

Presently residing at Arihant Colony, Gobra Nawapara,
Tehsil - Abhanpur, District Raipur (C.G.)

---- Respondents**CRR No. 1294 of 2018**

1. Smt. Richa Sahu, W/o Rajesh Sahu, aged about 32 years.
2. Ku. Harshita Sahu, D/o - Rajesh Sahu, aged about 05 year (minor), through Mother Smt. Richa Sahu

Both 01 and 02 R/o - Arihant Colony, Gobra Nawapara,
Tehsil Abhanpur, District - Raipur (C.G.)

----Petitioners**Versus**

- Rajesh Sahu, S/o Maharaji Lal Sahu, aged about 37 years, R/o House No. M.I.G.-28, Sector-3, Krishna Kunj, Deen Dayal Upadhyaya Nagar, Raipur, Tehsil and District - Raipur (C.G.)

---- Respondent

For Petitioner	:	Shri Kashif Shakeel, Advocate for petitioner in CRR No.1125/2018 and respondent in CRR No.1294/2018
For Respondents	:	Shri Prasoon Agrawal, Advocate for respondents in CRR No.1125/2018 and petitioners in CRR No.1294/2018.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

22/07/2019

01. Since the aforesaid two revisions arise out of the common order dated 17.09.2018 passed by IInd Additional Principal Judge, Family Court, Raipur, in Miscellaneous Criminal Case No.572/2014, they are being disposed of together by this common order.

02. It is admitted facts before the trial Court that the marriage of applicant in CRR No.1125/2018 was solemnized with respondent No.1 on 11.07.2013 according to Hindu customs and out of wedlock the couple is having a female child Ku. Harshita Sahu (R-2) aged 1 year. The respondent No.-1-wife in CRR No.1125/2218 filed an application under Section 125 of Code of Criminal Procedure before the learned trial Court on the ground that soon after the marriage the respondent No.1 was being subjected to cruelty and tortured her mentally and physically by the family members of the applicant-husband. It has been further alleged that the

applicant-husband had deserted her without there being sufficient reason and he is not even making any arrangement for maintenance. It has been also alleged that the applicant-husband has sufficient means of income and, therefore, she may be given Rs.50,000/- per month (Rs.30,000/- for medical expenses and Rs.20,000/- towards maintenance.). The applicant-husband denied all allegation stating that he never demanded dowry at the time of marriage and he never tortured respondent-wife for bringing meager dowry. The respondent-wife left matrimonial house of her own without any justifiable cause. She is an educated lady and capable to maintain herself. The learned Family Court allowed the application of respondents in CRR No.1125/2018 and ordered to give Rs. 6,000/- to respondent No.1 and Rs.4,000/- to respondent No.2. Hence, this revision petition.

04. Learned counsel for the applicant in CRR No.1125/2018 and respondent (husband)-Rajesh Sahu in CRR No.1294/2018 submits that the trial Court, without considering the case properly and without application of mind, granted maintenance of Rs.6,000/- to respondent No.1 and Rs.4,000/- to respondent No.2. Learned counsel further submits that applicant is now jobless due to the complaint made by respondent-wife and she is having sufficient means to maintain herself. He also submits that respondent-wife left the matrimonial house of her own without there being any sufficient cause. 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. Learned counsel for the applicants in CRR No.1294/2018 and respondent in CRR No.1125/2018 submits that the applicant No.1-wife is suffering from physical ailment and requires constant treatment, therefore, the impugned order granting maintenance requires reconsideration and maintenance amount may be enhanced suitably.

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

07. During the pendency of instant revision petitions, the applicant-husband filed applications (I.A.No.01/2019 and 03/2019 in CRR No.1125/2018 and I.A.No.02/2019 in CRR No.1294/2018), for taking documents on record. It has been contended on behalf of the applicant in CRR No.1125/2018 that the documents are related to service of respondent No.1 in CRR No.1125/2018 and her bank statements, which shows that respondent No.1 is working as Teacher and she is getting monthly salary. These documents are subject matter of examination to reach at the right conclusion and, therefore, the same may be taken on record. He also contended that he obtained these documents after passing of the impugned order and, therefore, could not be produced before the trial Court.

08. in CRR No.1294/2018, the applicant-husband filed an

application under Section 340 of Cr.P.C. on the ground that the respondent-wife gave a false affidavit before this Court and, therefore, she is liable to be prosecuted for giving false affidavit.

09. The documents are related to dispute between the parties, more particularly related to service of respondent-wife and her bank statement, which were not considered by the trial Court as the same has 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 trial Court.

10. Upon due consideration, I.A.No.01/2019 and 03/2019 filed in CRR No.1125/2018 is allowed. The impugned order dated 17.09.2018 passed by the learned IInd Additional Principal Judge is set aside. Documents filed by the applicant-husband are taken on record as an additional evidence. The matter is remitted back to the trial Court. The trial Court, after production of said documents, shall proceed to hear the case and decide the case afresh, in accordance with law. The learned trial Court shall grant time to both the parties to amend their pleadings and to produced any additional evidence regarding the alleged documents before proceedings, if they so desire.

11. As regards I.A.No.02/2019 filed under Section 340 Cr.P.C in CRR No.1294/2018, the trial Court is directed to open separate M.J.C. and issue notice to wife Smt. Richa Sahu.

After obtaining her reply, trial Court to conduct detail inquiry and send its report. The copy of application (I.A.No.02/2019) along with copy of reply and concerned affidavit be sent to the trial Court.

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 trial 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 trial Court on **02.09.2019**.

Sd/-

(Rajani Dubey)
JUDGE