

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1114 of 2017****Order Reserved on 12/03/2019****Order delivered on 17/05/2019**

Malkit Singh Gil S/o Harchand Singh Gil, aged about 36 years R/o Civil Lines,
Dhamtri, Distt. Dhamtari (C.G.)

--- Applicant**Versus**

1. Smt. Arshpreet Kaur, W/o Malkit Singh Gil @ Goddu, aged about 24 years,
2. Saheb Jot Singh, S/o Malkit Singh Gil, aged about 3 years, minor through his natural guardian mother Arshpreet Kaur,

Both are R/o C/o Khel Singh, House No. R/37, Housing Board, Industrial Area, Bhilai, Tahsil and Distt. Durg (C.G.).

---- Respondents

For Applicant	:	Ms. Saumya Sharma, Advocate.
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

CAV Order

1. This revision has been filed by the Applicant against the order dated 06/10/2017 passed in Criminal MJC No. 901/2015 by the Principal Judge, Family Court, Durg, whereby the Principal Judge has allowed the application under Section 125 of the Cr.P.C and granted monthly maintenance of Rs. 8000/- and Rs. 5000/- in favour of Respondent Nos. 1 & 2, respectively.
2. There is no dispute on the point that the marriage between the Applicant

and Respondent No. 1 was solemnized on 20/02/2011 and out of their wedlock Respondent No. 2 borne. Presently, the Respondents are residing separately.

3. Before the Family Court, the Respondents had filed an application under Section 125 of the Cr.P.C with the averments that from the first day of their marriage, the Applicant and his mother started to harass Respondent No. 1 for demand of car, cash and LCD TV etc. They used to say that the Applicant had married with her only for doing household work. In reply to that Respondent No.1 always told them that they are not financially capable to fulfill their demands as her father has died and they have no source of income, but the Applicant and his mother used to harass her and committed Marpeet with her. It was further pleaded that the Applicant and his mother also asked her to transfer the Tractor on their name. On refusing the same, the Applicant threatened mother of the Respondent No. 1. It was further pleaded on 13/08/2011, the Applicant and his mother has expelled Respondent No. 1 from their house when she was pregnant. Thereafter, on 24/02/2012 Respondent No. 2 borne. After intimating this information to the Applicant and his family members, nobody came to see Respondent No. 2. Even the expenses of the delivery was not provided by them. It was further pleaded that Respondent No. 1 is housewife and is not doing any work. Whereas, the Applicant is doing the work of transport and earning Rs. 35,000/- from that work. He also earns Rs. 30,000/- from school and he has owned a shop which he gave on rent and earns Rs. 20,000/-. Therefore, the Applicant has sufficient means to maintain them.
4. In his reply, the Applicant denied all the allegations made against him and

pleaded that Respondent No. 1 is living separately without any reasonable cause. She has deserted him. She herself left his house. It was further pleaded by him that Respondent No. 1 does not want to live with the Applicant and does not want presence of her in-laws. She is not interested in doing any household work and has a habit of chatting on cell phone for hours. On being objected, she used to ill treat the parents of the Applicant and abused them. The Applicant wants to keep her with him, but she is residing separately without any reasonable cause. It was also pleaded that though he has got two vehicle financed and doing business of transport, he gives Rs. 60000/- towards installment of the said vehicles. He is also taking care of his mother, father, younger brother and sister. He has no source of income nor any school or shop from which he is getting any income.

5. The learned Family Court after recording the evidence of both the parties and recording their submissions has allowed the application and granted maintenance to the Respondents as mentioned in paragraph one of this order. Thus, this revision has been filed by the Applicant.
6. Counsel for the Applicant submits that there is sufficient evidence available on record which shows that Respondent No. 1 is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance. It is further submitted that the learned Court below has not taken into consideration that the Applicant is paying a huge amount towards installments of the vehicles which have been taken on finance. Looking to the financial status and earning capacity of the Applicant, the maintenance awarded by the Family Court is on higher side, which should

be suitably reduced.

7. None for the Respondent even when the matter is called out in the preceding days of the week.
8. I have heard counsel for the Applicant and perused the record minutely.
9. Respondent No. 1 examined herself as Applicant Witness No. 1. The Applicant herein examined himself as Non-Applicant Witness No. 1 and also examined one witness namely Jagjeevan Singh as Non-Applicant Witness No. 2. Both the Applicant and Respondent No. 1 have deposed as per their pleadings before the Family Court.
10. As deposed by Respondent No. 1 that on 13/08/2011, the Applicant and his mother have beaten her and expelled her from their house when she was pregnant. Thereafter, on 24/02/2012, when Respondent No. 2 borne, an intimation was sent to the Applicant, but he did not come. Contrary to this, the Applicant in his statement has stated that in the month of August, the Applicant himself had taken Respondent No. 1 to her house for Rakhi festival and thereafter she herself did not come. The Applicant has not stated any reason why Respondent No. 1 did not come back. Even no social meeting has been conducted or legal action has been taken by the Applicant to bring her back. Moreover, he admitted the fact that Respondent No. 1 had made a complaint on which the Applicant was called for counseling. From the above it is established that from the month of August, 2011, Respondent No. 1 is residing separately, the Applicant has not made any effort to bring her back. Contrary to this, a complaint was made by the wife upon which a counseling was conducted, therefore, there

is no substance in the argument that Respondent No. 1 is residing separately without any reasonable cause. Thus, the finding of the Family Court is in accordance with law.

11. With regard to quantum of maintenance, the Applicant himself has admitted the fact that he owned two trucks and runs the business of transport. As stated by him, installment of those trucks which has been financed are Rs. 59000/- and he saves only Rs. 5000/- from per truck. Neither the Applicant has submitted any document in this regard nor he filed any documents relating to income tax return before the Family Court. In this revision, a statement of account of vehicle No. CG04 HN 5536 has been submitted. According to this, he is paying monthly Rs. 58780/- towards installment. As per this document, out of total 47 installments, 41 installments have already been paid and last installment was due for payment on 21/09/2018. Thus, from the document itself, it is clear that as on date all the installments have been paid. Therefore, there is no additional burden of installments upon the Applicant. Though a copy of agreement to sale of the said vehicle was submitted before this Court which shows that the said vehicle was sold to one Manoj on 25/11/2017 and the possession of the vehicle was also given to him, the statement which has been produced by the Applicant of the vehicle up to 21/03/2018 shows that 41 installments have been paid by him. Thus, from the above, it is clear that the agreement to sale has not been legally executed. Moreover, from the statement of Applicant Witness No. 2 Jagjeevan, it is also clear that in the family of the Applicant there are three other vehicles and brother and father of the Applicant are also doing the work of transportation. This witness has also

admitted that one sister of the Applicant is in job. Therefore, it is not established that there is any burden upon the Applicant. In these circumstances and looking to the financial status of both the parties and earning capacity of the Applicant and his other liability, the order passed by the Family Court is just and proper and requires no interference.

12. Accordingly, the revision has no merit and the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge