

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1144 of 2017****Order Reserved on 09/01/2019****Order delivered on 07/03/2019**

Mohan Lal Sahu S/o Sada Ram Sahu, aged about 32 years R/o Village Chilfi,
P.S. and Tahsil Saja, District Bemetara (C.G.)

--- Applicant

Versus

1. Bhuneshwari Bai Sahu W/o Mohan Lal Sahu, aged about 28 years,
2. Mahesh S/o Mohan Lal Sahu, aged about 7 years,
3. Umeshwari D/o. Mohan Lal Sahu, aged about 4 years,

Respondent No. 2 & 3 are minor through natural guardian mother
Bhuneshwari Bai Sahu

All are R/o House of M.K. Soni, Advocate, J.P. Nagar, Ward No. 22,
Camp-2 Bhilai, Tahsil and District Durg (C.G.)

---- Respondents

For Applicant	:	Mr. Yogesh Chandra, Advocate.
For Respondent	:	Mr. Praveen Dhurandhar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

CAV Order

1. This revision has been filed by the Applicant against order dated 24/10/2017 passed in Criminal MJC No. 870/2015 by the Principal Judge, Family Court, Durg, whereby the learned Family Court has awarded monthly maintenance of Rs. 10,000/- in favour of Respondent No. 1 and Rs. 2500/- each in favour of Respondents 2 & 3. Total Rs. 15000/- in favour of the Respondents.
2. Facts of the case are that an application under Section 125 Cr.P.C was

filed by the Respondents before the Family Court. It was pleaded by them that Respondent No.1 (henceforth 'the Wife') is a legally wedded wife of the Applicant (henceforth 'the Husband') and Respondent Nos. 2 & 3 are their children. It was further pleaded that after the marriage, the Husband used to harass the wife. He also expelled her from his house on 02/09/2015 and since then the Wife is residing separately with Respondent Nos. 2 & 3. She has no source of income, whereas the Husband is a farmer. It was also pleaded that earlier an application under Section 125 Cr.P.C was preferred by her, thereafter, a compromise took place between them on 22/07/2015. Subsequently, the Husband took her with him to his house.

3. In his reply, it was pleaded by the Husband that after 9 years of marriage, the Wife without informing as well as without any reason, in the influence of one Deepa Verma has left his house and is residing with said Deepa Verma. It was further pleaded that after counseling, the Wife was sent with him on 27/06/2015, thereafter, again without informing him, the Wife left his house. He reported the matter in the police station. It was further pleaded that an application under Section 9 of the Hindu Marriage Act was filed by him for restitution of conjugal right which was decreed in his favour, but still the Wife without any sufficient cause left his house.
4. Before the trial Court, the Wife examined herself as Applicant Witness No. 1 and also examined one Deepa Verma as Applicant Witness No. 2. The Husband examined himself as Non-Applicant Witness No. 1 and also examined one Lokesh as Non-Applicant Witness No. 2. Both the parties had also submitted certain documents.
5. After recording the evidence of both the parties and hearing their

submission, the learned Family Court vide impugned order dated 24/10/2017 granted monthly maintenance of Rs. 10000/- in favour of the Wife, Rs. 2500/- in favour of Respondent No. 2 & Rs. 2500/- in favour of Respondent No. 3. Hence, this revision has been filed by the Applicant/Husband.

6. Counsel for the Applicant submits that the learned Family Court has failed to appreciate that the Wife has voluntarily left the house of the Husband without any sufficient cause. It ought to have appreciated that the decree under Section 9 of the Hindu Marriage Act was passed in favour of the Husband. But, the Wife did not comply the same. He further submits that the Family Court has also failed to appreciate that the Wife in the influence of one Deepa Verma has left the house of the Husband and residing with said Deepa. He further submits that since the Wife is residing separately without any reasonable cause, therefore, she is not entitled to get any maintenance.
7. Counsel appearing on behalf of the Respondents supported the impugned order.
8. I have heard counsel for the parties and perused the records minutely.
9. There is no dispute on the point that both Respondent No. 1 and the Applicant are legally wedded couple and out of their wedlock, Respondent Nos. 2 & 3 were borne. There is also no dispute on the point that the Wife is residing with other Respondents in the house of one Deepa Verma (Applicant Witness No. 2). From the evidence adduced by the parties, it is clear that earlier an application under Section 125 Cr.P.C was preferred by

the Wife, but during the pendency of the said application, a compromise deed (Ex.P-1) took place and thereafter, the said application was disposed of. The Wife again resided with the Husband.

10. During cross-examination in para 8, the Wife admitted the fact that after the compromise deed, she resided with the Applicant for about 1 month. In para 9 of her cross-examination, she also admitted the fact that the Husband made a report in the police station with the averment that she has left his house. She also admitted the fact that the police had recorded her statement at that time and she refused to go with the Husband. Though, in para 10 of her cross-examination, she stated that she also made a report regarding beaten by the Husband, she has not submitted the said report before the Family Court. During her cross-examination, when a proposal was made by the Husband to take her with him, she refused to go with him. On what ground, she refused to go with the Husband has not been disclosed by her. She also admitted the fact that the Husband had also filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal right and as stated by the Husband, he obtained a decree in this regard. In spite of that, the Wife did not go with him.
11. From the above evidence which is available on record, it is clear that after compromise, the Wife resided with the Husband for about 1 month and then left his house. There is no evidence on the record which shows that after compromise, the Husband has beaten her or tortured her neither any report was lodged by the Wife in this regard. Contrary to this, the Husband made a report in the police station with the averment that the Wife has left his house. Moreover, when the Police recorded the evidence of the Wife,

she refused to go with the Husband. During recording of evidence also, there was one proposal made by the Husband before the Wife to go with him, but the Wife refused to go with him. Even, no ground has been offered by the Wife that why she does not want to reside with the Husband.

12. From the above, it is clear that the Husband wants to keep the Wife with him, but the Wife does not want to reside with him. Moreover, she is not disclosing any reason for not residing with the Husband. In these circumstances, it is clear that the Wife is residing separately without any reasonable cause. Therefore, in my considered view, she is not entitled to get any maintenance from the Husband.
13. With regard to Respondent No. 2 & 3, looking to the financial, social status and earning capacity of the Husband, the maintenance award of Rs. 2500/- each granted in favour of Respondent Nos. 2 & 3 is just and proper and requires no interference.
14. Accordingly, the revision is partly allowed to the extent indicated above.

(Arvind Singh Chandel)
Judge