

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1180 of 2018

- Santosh Kumar Chandel S/o Ankalha Ram Aged About 40 Years R/o Village- Londi, Post- Khapri, Police Station, Tahsil And District- Balod, Chhattisgarh

---- Applicant

Versus

1. Smt. Savitri Bai, W/o Santosh Kumar Chandel, Aged About 35 Years,
2. Ku. Anjali, D/o Santosh Kumar Chandel, Aged About 16 Years, Minor Through Her Natural Guardian Mother Smt. Savitri Bai, W/o Santosh Kumar Chandel, both are R/o Village- Londi, Post- Khapri, Police Station, Tahsil And District : Balod, Chhattisgarh

---- Respondents

For Applicant	:	Shri Amit Kumar Sahu, Adv.
For Respondents	:	Shri Anil Gulati, Adv.

Hon'ble Smt. Justice Rajani Dubey

Order on board

10.07.2019

The present revision has been filed by the applicant against the order dated 11.10.2018 in Criminal MJC No.123/2016 by the First Additional Judge, Family Court (Circuit Court) Balod, whereby the learned Judge has allowed the application under Section 125 of the Cr.P.C. and granted monthly maintenance of Rs.1500/- and Rs. 1500/- in favour of the Respondent Nos. 1 & 2, respectively.

2. Before trial Court, this is an admitted fact that Respondent No.2 is a minor daughter of the applicant and Respondent No.1 had filed an application under Section 125 of the Cr.P.C. with the averment that the marriage of the Applicant and Respondent No.1 was solemnized in the year 1998 and out of their wedlock Respondent No.2 born. After 15-16

years of marriage, applicant started abusing and torturing his wife Respondent No.1. The Applicant also wrote a letter to one lady of village namely Mrs. Kavita Banjare, for this act, he was imposed with fine by the committee members of the village. After that incident, the applicant started *marpeet* with his wife Respondent No.1 and on 14.12.2015, his family members expelled Respondent No.1 from their house. Thereafter, the Applicant kept another lady with him in his house. A report was made by Respondent No.1, under Domestic Violence Act and trial was pending before the Chief Judicial Magistrate, Balod. The respondents are unable to maintain themselves. The Applicant has owned 5 acres of agricultural land, from which he earned two lakhs rupees yearly income. He also earned monthly rent of Rs.15,000/- from his shop in the village.

3. In his reply, the Applicant denied all the allegations made against him and it was pleaded that Respondent No.1 is not legally wedded wife of the applicant and she has married to another man namely Laxmi Narayan. He has not owned any agricultural land. Sulochana is applicant's legally wedded wife and one son and old parents are also dependent on applicant, therefore, respondents are not entitled to get any maintenance.

4. 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.

5. Counsel for the applicant submits that the learned Family Court has failed to consider the marriage of Respondent No.1 with another

man and no documents are produced before the Court with regard to the divorce between them, which clearly shows they lived together as husband and wife. The learned Family Court has failed to consider that Respondent No.2 is major and she is doing private job at Bhopal and able to maintain herself and her mother, therefore, they are not entitled to grant of maintenance. The Respondent No.1 has not produced any document before the learned trial Court, to prove that she is legally wedded wife of the applicant, therefore, she is not entitled for any maintenance amount from the applicant. Respondents are working women and applicant is doing labour work and he has hardly earned small money for maintaining his family. So, the order of the Family Court is liable to be set aside.

6. Counsel for the Respondents has supported the impugned order.

7. I have heard counsel for the parties and perused the record to assess the correctness of the impugned order.

8. Before the Court below, the Applicant has admitted in his statement that he and Respondent No.1(Savitri Bai), are residing together since last 18-19 years and though known as husband and wife. In Para Nos. 16 to 22, learned Family Court has minutely scrutinized the evidence and legal aspects of both the parties and passed the impugned order on those evidence, which is correct in accordance with law. The impugned order passed by the Court below is well reasoned order, since, the respondents are residing separately and they are unable to maintain themselves, therefore, they are entitled to get maintenance.

9. With regard to maintenance amount, learned trial Court has directed Rs.1500/- and Rs.1500/- (total Rs.3000/-) in favour of the

respondents, which is not on higher side. In these circumstances and looking to the financial status of both the parties and earning capacity of the applicant, the order passed by the learned Family Court is just and proper and requires no interference.

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

yasmin

Sd/-
(Rajani Dubey)
Judge