

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1330 of 2018**

- Amit Sharma S/o Shri Bajranj Sharma, Aged About 31 Years R/o Front Of Muktidham, near Gupta Hospital Shankar Nagar Durg, Police Station Mohan Nagar Shankar Nagar Durg, District Durg, Chhattisgarh.

---- Applicant**Versus**

- Smt. Jyoti @ Tripti Sharma W/o Amit Sharma, Aged About 23 Years, R/o Subhash Nagar Shreya Fainshi Stores, Varma Niwas Kukari Para, P.S. Purani Basti, Raipur, District-Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Tarun Dansena, Adv.
For Respondent/State	:	None

Hon'ble Smt. Justice Rajani Dubey**Order on Board****08.08.2019**

1. The present revision has been filed by the applicant against the order dated 14.11.2018 in Criminal MJC No. 673/2015 passed by the First Additional Principal Judge, Family Court, Raipur, whereby the learned judge has allowed the application under Section 125 of Cr.P.C. and awarded Rs. 5,000/- as monthly maintenance in favour of the Respondent (wife).
2. It is not disputed before family Court that applicant (husband) and respondent (wife) married in the year 2014 according to personal law customs and rituals. Respondent (wife) filed an application under Section 125 of Cr.P.C. before family Court on the ground that applicant treated her with cruelty and tortured her both physically and mentally and finally had ousted her from his home. She is unable to maintain herself, whereas the applicant having Kirana Store, working in a liquor shop and getting Rs. 50 thousand per month. So, respondent demanded Rs. 20,000/- per month as maintenance.
3. In his reply the applicant denied all allegations made by the respondent and stated that he never tortured his wife. The applicant wants to keep her

with him but she resides separately without any reasonable cause. He further submits that he has no source of income and he does not have any Kirana Store. The learned Family Court, after recording the evidence of both the parties and also recording their submission, allowed the application of the respondent and granted maintenance in her favour as mentioned above in this order. Hence, this revision has been filed by the applicant.

4. Learned 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. Learned Family Court grossly erred in allowing the respondent's maintenance application. He further submits that the applicant is not at all in the position to pay Rs. 5000/- per month, though, observation made by the learned Family Court is erroneous and contrary to law.
5. None appears on behalf of the respondent, though, notice has been served.
6. Heard the learned counsel for the applicant and perused the material available on record.
7. Respondent No. 1 examined herself as witness No. 1, and Praveen Sharma as PW 2. On the other side, the applicant examined himself as non-applicant witness No. 1. Both applicant and respondent have deposed as per their pleadings before the family Court. Respondent filed some documents as PW-1, Ex.- P-1, Ex. P-2. She stated in her deposition that the applicant and his family members beaten her and expelled her from their house. Thereafter, she filed complaint before Mahila Police Thana, Raipur (Ex. P-1). Ex- P-2 shows that applicant himself admitted in written that he has not beaten his wife. Respondent's brother (Praveen Sharma) has also supported the version of his sister. From the above, it is established that the respondent is residing separately. There is no substance in the argument of learned counsel for the applicant that the respondent is residing separately without any reasonable cause. Thus, the finding of the Family Court is in accordance with law.
8. With regard to the quantum of the maintenance, the respondent stated that applicant has Bajrang Kirana Store and is earning Rs. 20,000/- per month

from the same and he is also working in liquor shop and his income is Rs. 30,000/- per month, thus, he is getting total Rs. 50,000/- per month. In his reply the applicant denied all allegations and submitted that he was a waiter in bar and at that time he was getting only Rs. 3,760/- per month. His parents are also dependent upon him. In his cross-examination, he stated that he was serving as store keeper in Bittu Bhattiya's liquor business and was getting Rs. 3,760/- per month. Learned Family Court also found that respondent (wife) herein has not filed any documentary evidence regarding applicant salary of Rs. 50,000/- per month.

9. This is an admitted fact that, now-a-day income of a daily wager is near-about Rs. 8,000-9,000 per month and, according to that, this Court is of the considered view that the maintenance award passed by the Family Court is higher and inappropriate. Therefore, the award passed by the Family Court is not maintainable. Thus, the impugned order is modified to the extent that now the applicant to pay Rs. 3,000/-per month as maintenance to the respondent from the date of order passed by the family Court i.e. 14.11.2018.

10. Thus, the revision is allowed in part to the extent indicated as above.

Sd/-
(Rajani Dubey)
JUDGE