

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1359 of 2018**

- Ishwar Sahu S/o Kanshiram Sahu Aged About 23 Years Occupation Cultivator And Labour R/o Village Karchwa Police Station And Tahsil Bemetara District Bemetara Chhattisgarh.

---- Applicant**Versus**

1. Sangeeta W/o Ishwar Sahu Aged About 23 Years
2. Gulshan Sahu S/o Ishwar Sahu Aged About 3 Years Minor Represented Through Mother And Legal Guardian Non Applicant No. 1

Both are R/o Village Pratappur, Police Station Nawagarh District Bemetara Chhattisgarh.

---- Non-Applicants

For Applicant	:	Shri Bharat Rajput, Advocate
For Non-Applicants	:	Shri Kanwaljeet Singh Saini, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****30.7.2019**

1. Heard the matter finally with the consent of the parties at motion stage.
2. This revision is directed against the order dated 29.10.2018, passed by the Judge, Family Court, Bemetara, District Bemetara(CG) in Cr. M.J.C.No.99/2017, whereby the Family Court has granted maintenance of Rs.2500/- and Rs.1500/- per month to non-applicants 1 and 2 respectively.
3. Facts of the case are that non-applicant No.1(wife) filed an application before the Family Court under Section 125 Cr.P.C. for grant of

maintenance. She stated that she was married to the applicant in the year 2013 according to Hindu customs and rituals and out of their wedlock, non-applicant No.2 (son) was born. She alleged that after some time of the marriage the applicant and his family members started the non-applicant treating with cruelty on account of demand of dowry. They were saying that she has not brought Fridge, Motorcycle etc. in dowry. A social Meeting was also convened and the matter was reconciled, but the applicants and his family members have not changed their behaviour. Thereafter, non-applicant No.1 filed an application before the Women Cell, Bemetara for domestic violence by the applicant and his family members and the case is pending before the trial Court. Since then the non-applicant along with her son is living in her parental house. She pleaded that she is unable to maintain herself and the applicant has movable and immovable property in his village and is earning Rs. 5 lacs per year, therefore, maintenance of Rs.10,000/- (Rs.5000/- + Rs.5000/-) per month may be granted to them/non-applicants.

4. Denying the allegations, the applicant submits that non-applicant No.1 is not his legally married wife and her marriage was settled with his elder brother- Yogesh, but Yogesh died after a week of the settlement of marriage. At that time, the applicant was minor and he is 2 years younger than non-applicant No.1, but she was ready to live with the applicant and while they were living together, non-applicant No.2 has born. The applicant is not having any property and he is doing labour work and his mother, father and minor brother are dependant on him. As non-applicant No.1 is not his legally married wife, she is not entitled for any

maintenance. The learned family court after hearing both the parties and the evidence adduced on their behalf, on 29.10.2018 ordered for grant of monthly maintenance of Rs.2500/- to non-applicant No.1 and Rs.1500/- to non-applicant No.2, total Rs.4000/-. Hence, this revision.

5. Learned counsel for the applicant submits that the impugned order dated 29.10.2018 is perverse, erroneous and contrary to law, therefore, the same is liable to be set aside. The family court has failed to appreciate that the benefit of maintenance is granted only to protect the women from vagrancy and it cannot be exercised as a civil right. She is living separately without any reasonable cause, therefore, she is not entitled for maintenance. The applicant has made efforts to bring back the non-applicants, but non-applicant No.1 is not willing to live with the applicant and she is residing separately. She is doing labour work and having agricultural land, thus, she is able to maintain herself.
6. On the other hand, learned counsel for the non-applicants supported the impugned order and submits that there is no illegality or infirmity in the order passed by the Family Court.
7. I have heard learned counsel for the parties and perused the impugned order.
8. This revision has been filed against the order of maintenance. The applicant has disputed his marriage with non-applicant No.1, but he has admitted that while they were living together, respondent No.2 has born and he is his son. The applicant has also admitted this fact in his statement that they were living as husband and wife. The Family court after evaluating the evidence has rightly held in para 19, 20, 21 and 22

that non-applicant No.1 is legally wedded wife of the applicant and there is sufficient reason for her to live separately. For deciding maintenance, the trial Court has to see prima facie the relation between the parties and income of the respondent. The applicant has accepted that non-applicant No.2 is his son, therefore, he is duty bound to maintain his minor son and wife. The Family court has granted very reasonable amount which is neither disproportionate nor unreasonable looking to the price index and minimum requirement. Therefore, I am of the view that the finding of the trial Court does not suffer any irregularity or illegality.

9. The revision has no merits. Accordingly, it is dismissed at the motion stage itself.

Sd/

(Rajani Dubey)
JUDGE