

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1488 of 2019

- Pramod Kumar Sahu S/o Gautam Sahu, Aged About 35 Years, R/o Sun City Colony, Behind Tahsil Office, Tahsil Kurud, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Applicant

Versus

1. Smt. Ramkumari Sahu W/o Pramod Kumar, Aged About 30 Years, R/o B.T.I. Road, Mahasamund, Tahsil Pithora, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
2. Ku. Kritika Sahu (Minor), Aged About 6 Years, Through Her Mother Smt. Ramkumari Sahu, R/o B.T.I. Road, Mahasamund, Tahsil Pithora, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

----Non-applicants/Respondents

For Applicant – Shri Aniket Verma, Advocate.

For Respondents/Non-applicants – None, though notice served.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-02-2020

1. This criminal revision has been brought challenging the order dated 25-02-2019 passed by the Family Court, Mahasamund in Misc. Criminal Case No.53/2018 granting maintenance of Rs.3000/- to respondent No.1 and Rs.2000/- to respondent No.2.
2. It is submitted that respondent No.1/non-applicant No.1 has no entitlement for maintenance for the reason that she has herself deserted the applicant and is living separately without sufficient cause. It is also submitted that the applicant has stated in examination-in-chief that respondent No.1 had admitted before elders that she has relation with some other person and therefore she did not want to live with the applicant, this statement has not at all been considered by the learned Family Court. Similar is the statement of the applicant's witness Laxman Sahu (NAW-2) which shows that respondent No.1 was leading a life of adultery, hence, on this ground she was not entitled for grant of any maintenance.

It is also submitted that the quantum of the maintenance ordered is also on the higher side for the reason that the applicant is unemployed and he himself is dependant upon his parents. Hence, it is prayed that impugned order be interfered with.

3. The respondents/non-applicants in this case have unrepresented.

4. Considered on the submission made and also perused the record of the proceeding before the learned Family Court.

5. Respondent No.1 has in her evidence very well stated that her husband/the applicant used to abuse her with filthy language, allege on her character and torture her in various manners. Subsequent to that, the applicant has driven out respondent No.1 from his house. On her filing application for grant of maintenance in the Court, the applicant appeared and then a compromise took place, however, behaviour and treatment of the applicant did not change and respondent No.1 was again driven out. Respondent No.1 has not made any statement regarding her capability to earn her living. In cross-examination her statement on the point of treatment of the applicant has remained intact. In cross-examination no question was put to this witness on this point that she has admitted her relation with other person before the village elders.

6. The applicant who himself is NAW-1 has made statement in rebuttal to the statement given by respondent No.1, but he does not deny that respondents are living separately. However, he has admitted in cross-examination that respondent No.1 has lodged one FIR against him, therefore, this fact establishes preponderance of probability that respondent No.1 had reason to live separate from the applicant. Hence, it cannot be said that respondent No.1 has deserted the applicant.

7. On the point that respondent No.1 was living in adultery, it is only statement of the applicant's witnesses which has been challenged in

their cross-examination by the respondents side. It is surprising to see that no such question was put to respondent No.1 herself in cross-examination as to whether she has made such statement to village elders that she is having some illicit relation with some other person. Therefore, it appears to be a ground invented later on, which cannot be taken into consideration or believed.

8. Lastly, on account of quantum, evidence is again considered. Respondent No.1 has stated in her examination-in-chief that the applicant is tailor by profession and he earns about Rs.1000/- per day. She has denied the adverse suggestion given in cross-examination. On this point the applicant has stated that since 2015 because of some illness he has become incapacitated and he is unable to do tailoring work, however, he admits that he has regained health in the year 2017. His another statement in examination-in-chief is this, that he used to run fancy store before his marriage and then he went to Raipur where he was doing tailoring job. Therefore, the applicant's connection with tailoring job is established and at present his status is also restored, therefore, he has capability to earn, because of which he has also capability to pay maintenance. Hence, the quantum of maintenance which has been fixed by the learned Family Court does not appear to be excessive in any manner. Therefore, I do not find any reason to interfere in the impugned order and accordingly, this criminal revision is dismissed at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge