

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 15 of 2019

Bishambhar Sahu S/o Jaipal Sahu Aged About 27 Years R/o Village- Singhauri, Post- Gorakhpurkala Thana And Tahsil- Lohara, District- Kabeerdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh.

---- Applicant

Versus

1. Smt. Jyoti Bai W/o Bishambhar Sahu Aged About 25 Years R/o Village- Devgaon, Thana- Dadhi, Tahsil And District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh
2. Dipendra S/o Bishambhar Aged About 4 Years Minor, Through His Guardian Mother Smt. Jyoti Bai R/o Village- Devgaon, Thana- Dadhi, Tahsil And District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh
3. Kumleshwar S/o Bishambhar Sahu Aged About 3 Years Minor, Through His Guardian Mother Smt. Jyoti Bai R/o Village- Devgaon, Thana- Dadhi, Tahsil And District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh.

---- Respondents

For Applicant	: Mr. Samir Singh, Advocate
For the Respondents	: None present though served.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-02-2020

1. This revision petition has been brought being aggrieved by the order dated 13.11.2018 passed by the Learned Judge Family Court in Cr.M.J.C. Case No. 206 of 2017, by which the learned Family Court has ordered to pay maintenance of Rs.4,000/- to the respondents.
2. It is submitted by counsel for the applicant that the learned Court has committed an error in holding that respondent No.1 is residing separately having sufficient reason for doing the same and the evidence of the applicant was not properly appreciated. Hence, the impugned order is liable to be set aside.

3. The respondents in this case have not appeared and they are not represented.
4. Heard counsel for the applicant and perused the documents present on record.
5. No dispute has been raised by the applicant/ husband regarding his marriage with respondent No.1 and paternity of respondents No.2 and 3. It is also not disputed that the respondents are living separately and the applicant is not paying any maintenance to them. This has also not been disputed in this petition that the applicant is capable to pay maintenance to the respondents. Therefore, the only question raised in this revision is whether respondent No.1 has sufficient cause to reside separately from her husband i.e. this applicant.
6. On perusal of the evidence given by Jyoti Bai (AW-1) who is respondent No.1 and Heeralal (AW-3) who is an independent witness, it is found that they have categorically stated regarding the cruel treatment given by the applicant to his wife because of which, she has left her matrimonial home and the statement remained unrebutted in cross-examination of these witnesses.
7. Applicant – Bishambhar Sahu (NAW-1) has made allegations that respondent No.1 used to torture him, his parents and his unmarried sister, therefore, he had to live separately from his parents. Respondent No.1 – Smt. Jyoti Bai used to make various demands which was not in the capacity of the applicant to fulfill. Therefore, respondent No.1 left the matrimonial home and resided with her parents for six months. Thereafter, a meeting of elders of the society was held, in which respondent No.1 had admitted and signed one Ikrarnama stating that she will behave well in future. Subsequent to that, respondent No.1 came to reside with the applicant, however, her father on pretext of

performance of some pooja in his house has taken her to his home and thereafter, she has not returned back. In cross-examination, he has denied the adverse suggestions given that he used to torture and beat respondent No.1 subsequent to compromise that took place in presence of village elders. The compromise document is not produced and neither it was confronted to respondent No.1.

8. On perusing the evidence presented by both the sides, I am of this view that learned Family Court has not committed any error in passing the impugned order. It was found established that on the basis of the evidence of the respondents' side that because of the cruel treatment of the applicant, respondent No.1 is compelled to live in her parental house, therefore, there appears to be sufficient cause for respondent No.1 for living separately. The conduct of the applicant is also apparent, therefore, I am of this view that there is no need to interfere in the impugned order.
9. Hence, the revision petition is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi