

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 443 of 2017

Order Reserved on : 09/03/2021

Order Delivered on : 26/03/2021

- Smt. Rekha @ Sukhwantin, W/o Shri Ramnihora, Aged About 30 Years, R/o Village Koni, Police Station and Tehsil Masturi, Civil and Revenue District-Bilaspur, Chhattisgarh.

---- Applicant

Versus

- Ramnihora Sahu, S/o Sadhram Sahu, Aged About 38 Years, R/o Village Khaira, Police Station and Tehsil Takhatpur, Civil and Revenue District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Keshav Dewangan Advocate.
For Respondent	:	Mr. Vikas Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

26/03/2021

Heard.

1. The petition has been brought challenging the order dated 9.3.2017 passed in M.J.C. No.249/2016 dismissing application filed by the applicant under Section 125 CrPC praying for grant of maintenance.
2. It is submitted by the counsel for applicant, that the applicant is the legally wedded wife of the respondent. The applicant is living separate from respondent for which she has sufficient reasons. The application of the applicant under Section 125 CrPC has been erroneously and incorrectly rejected by the learned Family Court. The applicant is unable to maintain herself, whereas respondent has earning of Rs.5,000/- per month. The finding in the impugned order that the applicant is living separate without sufficient cause is incorrect. The applicant had established her case by bringing evidence on that point, hence, it is prayed that this revision petition be allowed. The impugned order be set aside and the applicant be granted maintenance.

3. Learned counsel for respondent opposes the submissions and submits that the learned Family Court has not committed any error in passing the impugned order. The applicant failed to prove that she is living separate from the respondent for sufficient cause, which is demonstrated from her evidence, therefore, no case is made out in her favor. The revision petition be dismissed.
4. I have heard both the parties and perused the documents on record.
5. Considered on the submissions. There is no dispute that the applicant was married to respondent in the year 2006 and they have two children, one son aged about 9 years and a daughter aged about 7 years, who are living with the respondent. Applicant Rekha Sahu (AW-1) has stated in her statement that after some years of marriage, the respondent and his parents started torturing her for demand of dowry. As a result, the applicant left the house of the respondent on 4.9.2012 and lodged a report in police-station. Subsequent to which a compromise took place between them, but this compromise did not continue for long and the applicant left her matrimonial home finally. Thereafter, application under Section 125 CrPC was filed. In cross-examination, the applicant has admitted that earlier she had filed an application for maintenance, but the same was disposed off in view of compromise arrived at between the parties. It is her admission that subsequent to that compromise she was living happily in her matrimonial home and there was no dispute as she was living separate from other family members. She has admitted that she never made any complaint to the elders of her community. She has also admitted that her father and father-in-law have enmity between them for the last 6-7 years. She had denied other adverse suggestions.
6. Netram Sahu (AW-2) has supported version of applicant and admitted about his enmity with father of the respondent. He has admitted in cross-examination that he never complained about the dispute between his daughter and respondent to any elders of the community.
7. Ramnihora Sahu (NAW-1) has denied all the allegations made in the statement of the applicant's deposition and submitted that the applicant herself is a woman of irritable nature, who used to visit her parental house without the consent and willingness of the respondent. She herself has deserted her own children.

8. On appreciation of the evidence present, it is found that the applicant left her matrimonial home as also her children, who are living with the respondent, and never made any attempt to go back and to settle her dispute with the respondent, which appears from the admissions that have been made by the applicant's side in their evidence. Hence, I am of this view that the learned Judge, Family Court has not committed any error in rejecting application of applicant for grant of maintenance by holding that applicant is living separately without any sufficient cause. The present revision petition is without any substance which is liable to be and is hereby dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha