

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.371 of 2021**

- Kheduram Rajak S/o Late Shyamlal Aged About 58 Years (Wrongly Mention As 59) By Caste Dhobi, R/o Girhola, Post /Thana/Tahsil Charama, District Uttar Baster Kanker, Chhattisgarh

---- Applicant**Versus**

- Smt. Anjani Rajak W/o Kheduram Aged About 56 Years By Caste Dhobi, R/o Village And Post Jamruva, Thana/Tahsil And District Balod Chhattisgarh.

---- Respondent

 For applicant : Shri Parag Kotecha, Advocate
 For respondent : Shri Avinash Chand Sahu, Advocate

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****24.9.2021.**

1. With the consent of both the parties, the matter is heard finally at the motion stage itself.
2. This revision petition has been preferred against order dated 25.01.2021 passed by Judge, Family Court, Balod, Distt. Balod (CG) in MJC No.218/2019 whereby an amount of Rs.3,000/- per month has been granted as interim maintenance to the respondent/wife.
3. Brief facts pertaining to this revision is that the applicant and the non-applicants are legally wedded husband and wife and their marriage was solemnized somewhere in the year 1980. It is alleged that after living for some time, due to various types of torture committed by the applicant/ husband and on being ousted by him, the non-applicant/wife started living separately. Thereafter, she filed an application under Section 125 of the CrPC in December 2019 for maintenance and also filed application for

grant of interim maintenance. Vide order dated 25.01.2021, the learned Court below granted interim maintenance of Rs. 3,000/- per month in her favour. Aggrieved by this order, the applicant preferred the instant revision.

4. Learned counsel for the applicant submits that the respondent/wife left the company of the applicant about 35 years ago and thereafter in the year 2019 she filed application for maintenance before the trial Court. However, she did not explain how she had survived and maintained herself in those years and even she did not file any affidavit regarding her financial status as well as income. Despite that, the learned trial Court without considering the matter in its right perspective and spirit of the provisions of the maintenance, granted Rs.3,000/- per month as interim maintenance which is erroneous and not sustainable.

5. Per contra, learned counsel for the respondent/wife submits that after the marriage, the respondent/wife was living with the applicant/husband in her matrimonial house, however, the applicant/husband used to abuse her in filthy language and beat her, threatened to kill and also doubted her character and ousted her from the house. Thereafter community meeting was convened and in that meeting the applicant/husband agreed to keep the respondent/wife with him, however he did not change his attitude and ousted her from his house. He further submits that the respondent/wife has no source of income or means for her livelihood whereas, the applicant is a man of means as he is working as Peon in the Office of Sub-Tahsil Lakhanpur and is drawing a monthly salary of Rs.35,000/-. Therefore, the learned Court below has rightly granted interim maintenance which does not call for any interference by this Court.

6. I have heard learned counsel for the parties and perused the material available on record.

7. It is not in dispute in this case that the respondent is the wife of the applicant and she is living separately from the applicant/husband. Whether she is having sufficient reason to live separately is a matter of evidence which can be considered and decided during the trial. Although the respondent/wife has filed application under Section 125 CrPC, after a lapse of many years of living separately, but in the application she has clearly stated that she is not having any source of income to maintain herself. Since the respondent/wife is still having the status of the wife of the applicant, therefore, only on the basis of filing of delayed application for maintenance, her aforesaid status would not change and being an husband, the applicant cannot escape from the liability to maintain his wife.

8. The applicant/husband is said to be working as Peon in the Office of Sub-Tahsil Lakhanpur. He himself has admitted in his reply filed before the Court below that his net monthly salary is Rs.25,000/- . Looking to his aforesaid income, interim maintenance granted to the respondent/wife cannot be termed as improper or illegal, therefore, it does not call for any interference of this Court.

9. In view of the above, I do not find any infirmity or illegality in the order passed by the Court below warranting interference of this Court.

10. Thus, the revision is dismissed accordingly.

Sd/-

(N.K. Chandravanshi)
JUDGE