

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 738 of 2021

- Manoj Kumar Verma, S/o Birjhu Verma, Aged About 26 Years, Occupation Agriculturist/mason R/o Village Dhanoura, Post Kaunrakanpa, Police Station Nandghat, Tehsil Navagarh, District- Bemetara, Chhattisgarh. **---- Applicant**

Versus

1. Smt. Satimaya W/o Manoj Kumar Verma Aged About 22 Years,
2. Rajeshwar, S/o Manoj Kumar Verma, Aged About 10 Month, Respondent No. 02 is Minor through his Mother Respondent No. 01 Satimaya, R/o Village Dhanoura, Post Kaunrakanpa, Police Station Nandghat, Tehsil Navagarh, District Bemetara Chhattisgarh, Present R/o Village Dudhiya (Navagaon) Post Narayanpur, Chouki Maro, P. S. Nadghat, District Bemetara Chhattisgarh. **---- Non-applicants**

For Applicant : Shri Samir Singh, Advocate

For Non-applicants: Shri Sanjeev Kumar Sahu, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

29.08.2022

- 1) The applicant has filed the instant criminal revision against the order passed by the learned Family Court Bemetara, in Criminal M.J.C. No. 80/2020, dated 13.09.2021, whereby the application moved by the non-applicants (wife & child) has partly been allowed and Rs.2,500-2,500/- maintenance has been awarded from the date of order.
- 2) The non-applicants filed the application under Section 125 of Cr.P.C. before the learned Family Court and claiming Rs. 20,000/- maintenance inter-alia on the ground that the marriage between the applicant and non-applicant No.1 was solemnized on 25.04.2018 and through their wedlock non-applicant No.2 was born. She further pleaded that her father had given sufficient dowry at the time of marriage but motorcycle was not given,

therefore, she was being subjected to cruelty by the applicant and his mother. She further stated that when she was pregnant her husband/applicant and his mother used to inflict the injury by fists, kicks on her abdomen with intention to kill her unborn child. They used to administer some poisonous substance in her meal. She further stated that when the demand of dowry was not fulfilled she was ousted from her matrimonial house and she was forced to live along with her parents. She further pleaded that in the name of applicant 15 acres of irrigated land is recorded and he is earning Rs. 10 lacs from agriculture. He is working as mason and earning Rs. 500/- per day, thus she claimed Rs. 10,000-10,000/- maintenance for herself and for her child.

- 3) The applicant filed reply to the application and stated that he has no source of income, the applicant denied the allegations made in the application filed under Section 125 of Cr.P.C., he stated that he made several efforts to bring his wife back to matrimonial house and in this regard a meeting was also convened but she refused to return back her matrimonial house. He further stated that the application under Sections 97 & 98 of Cr.P.C. was moved before the Sub Divisional Magistrate, where non-applicant no.1 marked her appearance but she refused to stay alongwith the applicant.
- 4) The learned Family Court framed four issues and held that in the joint account of applicant and his father 4.37 hectares of land is recorded which is irrigated land and he is also working as labourer, thus he has sufficient source of income. Learned Family Court while deciding issue No.3 has held that the non-applicant No.1/wife has child and due to illness she is unable to get work. Learned Family Court while deciding the issue no.3 came to conclusion that the non-applicant No.1/wife was being subjected to cruelty for demand of dowry and same has been proved by the witnesses. AW/3 Narayan Verma, AW/1 Satimaya, AW/2 Himadri Verma have supported the case of the applicant/husband, whereas, NAW/1 Manoj Kumar, NAW/2 Lochan Verma, NAW/3 Koduram and NAW/4 Narakant Verma have stated that the non-applicant No.1/wife is residing

separately without sufficient cause. The learned Family Court has examined the statement recorded before the Sub Divisional Magistrate i.e. Ex.D/6 in which she has categorically stated about the cruelty subjected by the applicant/husband and his mother. The learned Family Court after appreciating the entire evidence awarded Rs. 2,500-2,500/- to wife and child (non-applicants).

- 5) The learned counsel for the applicant submits that the non-applicant wife is residing separately without sufficient cause and according to the provision contained in Section 125(4) of CrPC she is not entitled for any compensation. He further submits that in her evidence, she has admitted that she had denied to stay along with her husband.
- 6) On the other hand, learned counsel for the non-applicants submits that learned Family Court has awarded Rs. 2,500-2,500/- in favour of the applicants after appreciating the entire material available on record and thus he supports the order passed by the learned Family Court.
- 7) I have heard learned counsel for the parties and perused the records.
- 8) From the evidence of AW/1- Satimaya in form of affidavit under Order 18 Rule 4 of C.P.C., it appears that she has made allegations regarding cruelty against the applicant and his mother and in cross-examination the allegations have not been rebutted by the applicant/husband. The evidence of AW/2- Himadri Verma and AW/3- Narayan Verma supports & strengthens case of wife/non-applicant No.1. The evidence adduced by the non-applicant/wife could not controverted by the applicant/husband.
- 9) Considering the entire facts, documents and evidence available on record, particularly considering that the learned Family Court has awarded Rs. 2,500-2,500/- to the non-applicants, which cannot be said on higher side, further the reason for residing

separately has been established by the non-applicant/wife, I do not find any good ground to interfere with the order passed by the learned family Court, consequently, the instant criminal revision is dismissed.

Sd/-

(Rakesh Mohan Pandey)
Judge

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