



2026:CGHC:3965

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 268 of 2023**

Nilesh Vaishnav Son Of Lakhan Das Vaishnav, Aged About 37 Years
Resident Of Padum Nagar, Qtr. No. LG-30, Shriram City Apartment, Bhilai,
District - Durg (Chhattisgarh)

... Applicant**versus**

1. Smt. Vimla Rao Wife Of Nilesh Vaishnav, Aged About 36 Years Residing
At LIG - 224, Maharana Pratap Nagar, Korba, Tashil and District - Korba
(Chhattisgarh)
2. Ananya Vaishnav, Aged About 02 Years, Minor Respresented Through
Mother Smt. Vimla Rao. Residing At LIG - 224, Maharana Pratap Nagar,
Korba, Tashil and District - Korba (Chhattisgarh)

... Respondents

For Applicant	: Mr. C.K. Sahu, Advocate.
For Respondents	: Mr. Syed Imtiaz Ali, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****22.01.2026**

1. This Criminal Revision is being aggrieved of the judgment dated 13.01.2023 passed by the learned Family Court, Korba, (C.G.) in Misc. Criminal Case No. 46/2021, whereby the learned Family Court partly allowed the application under Section 125 of the CrPC filed by the non-applicants, and directed the applicant/husband that he has to pay the amount of Rs.6,000/- per month to the non-applicant No.1 and Rs. 4,000/- per month to non-applicant No.2.

2. The facts, in brief, is that the non-applicants filed an application under Section 125 of the Code of Criminal Procedure seeking maintenance for herself and her daughter against the applicant before the learned Family Court, Korba (C.G.), claiming maintenance to the tune of Rs. 30,000/- per month. The brief facts of the case are that the marriage between the applicant and non-applicant No.1 was solemnized on 03.12.2017 according to Hindu rites and rituals, and thereafter they resided together peacefully. The non-applicants alleged that dowry was given by her family according to their capacity; however, within one week of the marriage, she was subjected to harassment by the applicant and his family members on account of dowry. It was alleged that the applicant's family taunted her by stating that their son was employed as an M.R. and earning a handsome salary and that the marriage with a poor family had ruined his life. On this pretext, the applicant and his family members allegedly abused, tortured, and treated the non-applicant No.1 with cruelty, causing both mental and physical harassment. It was further pleaded that due to continuous mental and physical cruelty, the non-applicant No.1 went to her maternal home on 23.08.2018 and narrated the entire incident to her family. It was further alleged that even after the birth of non-applicant No.2, the applicant did not visit the child nor take the non-applicants back to the matrimonial home. When the non-applicant No.1 herself attempted to return to the matrimonial home, the applicant and his family allegedly misbehaved with her and attempted to harm the child, due to which, out of fear, she again returned to her parental home. The non-applicant No.1 further stated that she sent a legal notice dated 27.01.2021 to the applicant through her counsel seeking restoration of conjugal life, but the applicant failed to reply. Thereafter, she lodged a complaint at Police Station Rampur. It was further alleged that the

applicant is employed in a multinational company earning Rs. 60,000/- per month and that his father is a retired C.S.E.B. employee, thereby claiming that the applicant belongs to a well-to-do family. On these grounds, the non-applicants prayed for maintenance of Rs. 30,000/- per month.

3. The applicant filed a written statement before the learned Family Court denying all allegations made by the non-applicants. He stated that he never abandoned the non-applicants and that non-applicant No.1 was residing separately at her maternal home without any reasonable cause. He further stated that when the child was born at a hospital in Korba on 17.02.2019, he visited the hospital and bore the entire medical expenses. The applicant also stated that the legal notice dated 27.01.2021 was never served upon him. During counselling proceedings before the police, the non-applicant No.1 categorically refused to reside with the applicant. It was further pleaded that the applicant's father, Lakhan Das Vaishnav, is a retired employee and resides separately with the applicant's mother, and that the applicant is required to look after his aged parents. The applicant further stated that the non-applicant No.1 repeatedly pressured him to live separately from his family members. Accordingly, in July 2020, the applicant took a rented house bearing Quarter No. LIG-224, Padum Nagar, Bhilai-3, District Durg (C.G.), where they resided for about 18 days in an effort to resolve the dispute. However, thereafter, the non-applicant No.1 again left for her maternal home along with her brother and sister, stating that she would return after the festival of Raksha Bandhan, but she never returned. On 17.02.2021, the applicant went to her parental home to bring her back, but she again refused to return. Consequently, the applicant filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against non-applicant No.1 before the

Principal Judge, Family Court, Durg. On these grounds, the applicant prayed for dismissal of the maintenance application. The learned Family Court, after framing issues and appreciating the oral and documentary evidence on record, allowed the application under Section 125 Cr.P.C. and granted maintenance of Rs. 6,000/- per month to non-applicant No.1 and Rs. 4,000/- per month to non-applicant No.2 (total Rs. 10,000/-). Hence, the present revision.

4. Learned counsel appearing for the applicant submits that the impugned order passed by the learned Family Court is bad in facts as well as in law and is therefore liable to be set aside. The impugned order is based on conjectures and surmises, without proper appreciation of the evidence available on record. Non-applicant No.1 is living separately from the applicant without any reasonable or sufficient cause and, therefore, she is not entitled to claim maintenance under Section 125 of the Code of Criminal Procedure. The allegations of cruelty made by the non-applicant No.1 against the applicant are false, frivolous, and afterthoughts. She did not lodge any complaint regarding alleged cruelty with any police station at the relevant time and, after an unexplained delay of about three years, filed a complaint which was found to be false. During counselling proceedings before the police, non-applicant No.1 had categorically refused to reside with the applicant. The learned Family Court failed to properly appreciate the oral evidence led by the parties as well as the documentary evidence placed on record. Consequently, the impugned order suffers from material illegality and is liable to be quashed. Non-applicant No.1 and her family members never made any sincere effort to visit the applicant's house to resolve the matrimonial dispute. On the contrary, the applicant repeatedly visited the house of non-applicant No.1 to take her back to the matrimonial home, but she consistently

refused to return. On several occasions, she went to her parental home on one pretext or another and thereafter declined to return. All efforts at reconciliation and conciliation made by the applicant failed solely due to the adamant and unreasonable conduct of the non-applicants. The fact that non-applicant No.1 is residing separately without reasonable or sufficient cause is clearly established from the material on record. The said fact stands proved through the applicant's evidence, the admissions made by non-applicant No.1 during cross-examination, and corroborating evidence, which remained unrebutted. Considering the entire factual matrix and evidence on record, it is conclusively proved that non-applicant No.1 is living separately without just cause. Non-applicant No.1 is a well-qualified and educated lady, being a graduate, and is earning her livelihood by running tuition classes for children, with a monthly income of approximately Rs. 30,000/-. She is thus capable of maintaining herself and is not entitled to any maintenance from the applicant. Hence, the impugned order passed by the learned Family Court is erroneous and liable to be set aside. It is an admitted fact that the applicant has transferred an amount of approximately Rs. 2,00,000/- to the non-applicant through bank transactions from the year 2019 till date, which clearly demonstrates that the applicant has always been willing to maintain the non-applicants and never shirked his marital obligations. On the contrary, the non-applicant has filed frivolous proceedings against the applicant, which are unsustainable in law. Accordingly, the impugned order is liable to be set aside.

5. On the other hand, learned counsel for the non-applicants opposes the submissions made by the learned counsel for the applicant and submits that the Family Court after considering all the documents and evidence

adduced by the parties has passed the order, in which no interference is called for.

6. I have heard learned counsel for the parties, perused the pleadings and documents appended thereto.
7. Considering the submissions advanced by the learned counsel for the parties, and from the perusal of the impugned order passed by the learned Family Court, it transpires that after hearing all the statements of the witnesses and perusing the evidence available on record, and considering the conditions of both the parties, the learned Family Court has passed the impugned order, and there is no any illegality and infirmity while passing the same which requires interference by this Court.
8. Accordingly, the criminal revision being devoid of merit is liable to be and is hereby **dismissed**.
9. Let a certified copy of this order as well as original record of this case be sent to the concerned trial Court for necessary information and compliance forthwith.

Sd/-
(Ramesh Sinha)
Chief Justice