



2026:CGHC:12967

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 381 of 2026**

Smt. Lavina Anthony, W/o Shri Rahul Baghel Aged About 31 Years R/o Ward No.17,chingripara, Supela, Bhilai, Tehsil And District -Durg Chhattisgarh

... Applicant(s)**versus**

Shri Rahul Baghel R/o Resai Para, Ward No.16, Dhamtari, District - Dhamtari Chhattisgarh.

... Non-applicant(s)

For Applicant : Mr. Jitendra Gupta, Advocate.

For Non-applicant : None.

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****18/03/2026**

1. Heard Mr. Jitendra Gupta, learned counsel for the applicant.
2. By way of this revision, the applicant has prayed that this Hon'ble Court may kindly be pleased to allow this revision and further be pleased to set-aside the order dated 31.01.2026 passed by the Court of learned III Additional Principal Judge, Family Court, Durg (C.G.) in Civil Suit No. 472/2025, in the interest of justice.
3. Brief facts of the case are that the applicant is the legally wedded wife of the Non-applicant. The marriage between the applicant and the Non-npplicant was solemnized in accordance with Christian rites and rituals at St. Joseph Church, Sector-06, Bhilai, District



Durg (C.G.). After the marriage, the applicant started residing with the Non-applicant at her matrimonial home along with the Non-applicant's mother and his married sister. Soon after the marriage, the applicant came to know that the Non-applicant is habituated to excessive consumption of alcohol and used to physically and mentally abuse and harass the applicant. After some time of the marriage, the applicant fell seriously ill. Despite repeated requests, the Non-applicant refused to take the applicant to any doctor or to provide money for her medical treatment, stating that he had no money and that she should arrange for her treatment from her parental home. Therefore, due to the neglect and indifferent attitude of the Non-applicant, the applicant herself went to Christian Hospital, Bhatena, where she was advised to undergo a chest X-ray. However, the Non-applicant again refused to provide any financial assistance for the said medical examination and treatment, resulting in further deterioration of the applicant's health. The Non-applicant used to remain outside the room till late night hours and used to talk to another woman. Upon being questioned, the Non-applicant admitted that he was having a love affair with another woman even prior to the marriage and that he married the applicant only due to family pressure. He further expressed his unwillingness to continue the matrimonial relationship with the applicant and threatened to commit suicide if she did not agree to a divorce. Due to continuous illness and non-cooperation on the part of the Non-applicant, the applicant was compelled to return to her parental home on 31.06.2024 for treatment. Upon medical examination, the



applicant was diagnosed with Tuberculosis (TB), and she commenced her treatment on 06.07.2024. At present, the applicant has fully recovered. Even after her recovery, the Non-applicant has refused to take the applicant back on the false pretext that TB is a contagious disease and has further falsely alleged that the applicant was suffering from TB even prior to the marriage. Since then, the applicant has been residing at her parental home. The applicant is educated up to the 10th standard, has no independent source of income and is entirely dependent upon her mother and relatives for her livelihood. On the other hand, the Non-applicant is employed at Christian Hospital, Bhatena, and is earning approximately Rs. 20,000/- per month and has no dependent liabilities. Due to the willful neglect and refusal on the part of the Non-applicant to maintain the applicant, she was constrained to file an application under Section 144 of BNSS before the learned Family Court concerned.

4. After the Non-applicant entered appearance, efforts for amicable settlement between the parties were undertaken, but the same did not yield any result. Subsequently, at the stage of filing of reply, owing to the continued absence of the Non-applicant, the learned Family Court, vide order dated 29.10.2025, proceeded ex parte against the Non-Applicant.
5. After appreciating the evidence adduced by the applicant and perusing the documents available on record, the learned Family Court, despite the matter proceeding ex parte, vide order dated 31.01.2026, rejected the application for grant of maintenance under



Section 144 of BNSS (corresponding to under Section 125 Cr.P.C.), holding that the applicant failed to substantiate the allegations levelled against the Non-applicant by cogent and reliable evidence and further that no sufficient cause was made out for residing separately from the Non-applicant. Hence, this revision.

6. Learned counsel for the applicant submits that the impugned order dated 31.01.2026 is illegal, perverse and contrary to the evidence available on record, inasmuch as the learned Family Court has failed to appreciate that denial of medical treatment, continuous physical and mental cruelty and refusal to cohabit constitute sufficient and valid grounds for the applicant to reside separately. It is further submitted that the learned Family Court has adopted a hyper-technical approach by rejecting the applicant's case merely on the ground of absence of specific dates and instances, ignoring the settled principle that proceedings under Section 125 Cr.P.C./Section 144 BNSS are summary in nature. It is contended that despite the Non-applicant having been proceeded ex parte, the unrebutted affidavit and evidence adduced by the applicant have been discarded without assigning cogent and lawful reasons. The learned Family Court has also failed to consider the material fact that the applicant was suffering from Tuberculosis and was neglected by the Non-applicant, which itself constitutes cruelty and neglect under law. It is further submitted that the finding of the learned Family Court that the applicant had no sufficient reason to live separately is wholly arbitrary and based on conjectures rather than evidence. Moreover, the learned Family Court has ignored the



financial capacity of the Non-applicant, who is a salaried employee earning approximately Rs. 20,000/- per month with no dependent liabilities and has misapplied the provisions of Section 125(4) Cr.P.C. by placing an undue burden upon the applicant instead of examining the willful neglect and refusal on the part of the Non-applicant to maintain her. It is also contended that the learned Family Court has failed to apply the binding principles laid down by the Hon'ble Supreme Court that maintenance is a measure of social justice, and the impugned order has defeated the very object of maintenance law, thereby resulting in grave miscarriage of justice by leaving the legally wedded wife destitute and without means of survival. Accordingly, the order passed by the Family Court is bad in law and liable to be dismissed.

7. I have heard learned counsel for the applicant and perused the documents appended thereto.
8. From perusal of the records and the impugned order dated 31.01.2026, it is evident that the application preferred by the applicant under Section 144 of BNSS (corresponding to Section 125 Cr.P.C.) has been rejected by the learned Family Court by proceeding ex parte against the Non-applicant. It further transpires that despite service of notice, the Non-applicant did not appear before the learned Family Court and the evidence and affidavit adduced by the applicant, including the factum of her suffering from Tuberculosis (TB) and alleged neglect and refusal on the part of the Non-applicant to maintain her, remained unrebutted. However, the learned Family Court, without properly appreciating the unrebutted



evidence available on record and by adopting a hyper-technical approach, has come to the conclusion that the applicant was residing separately without sufficient cause and on that basis, rejected her claim for maintenance. In the considered opinion of this Court, such an approach of the learned Family Court is not sustainable in the eyes of law, particularly when the proceedings are summary in nature and the Non-applicant chose not to contest the case.

9. Accordingly, this Court is of the view that no purpose would be served in issuing notice to the Non-applicant at this stage. In view of the aforesaid, the present revision petition deserves to be and is hereby **allowed**.
10. The impugned order dated 31.01.2026 passed by the learned Family Court is set aside and the matter is restored to its original number. The learned Family Court concerned is directed to proceed afresh in accordance with law and decide the application under Section 144 of BNSS expeditiously, preferably within a period of three months from the date of receipt of this order.
11. Office is directed to send a certified copy of this order to the Family Court concerned for necessary information and compliance forthwith.

Sd/-
(Ramesh Sinha)
Chief Justice