



2026:CGHC:5814

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 860 of 2024**

Ahtesham Ali S/o Late Shahadat Hussain Aged About 34 Years R/o Handi Para
Near Musa Hotel, Momin Para, P.S. Azad Chowk, Raipur, District- Raipur (C.G.)

... Applicant**versus**

Smt. Naziya Fatima W/o Shri Ahtesham Ali, D/o Hamid Ali, Aged About 25
Years Presently R/o Behind Momin Para Masjid, Tatiya Para, Raipur, District-
Raipur (C.G.)

... Respondent

For Applicant : Mr. Vivek Mishra, Advocate.

For Respondent : Ms. Anubhav Vatsa, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****02.02.2026**

1. This Criminal Revision is being aggrieved of the judgment dated 29.04.2024 passed by the learned Principal Judge, Family Court, Raipur, District - Raipur (C.G.) in Cr.M.C.C. No. 932/2023, whereby the learned Family Court has partly allowed the application under Section 125 of the CrPC filed by the respondent, and directed the applicant/husband that he has to pay amount of Rs. 7,000/- to the respondent.
2. The facts, in brief, is that the respondent-wife filed an application under Section 125 of the Code of Criminal Procedure, 1973, seeking maintenance to the tune of Rs. 22,500/- per month. The marriage

between the parties was solemnized as per Muslim rites and rituals, in the presence of family members and with mutual consent, on 02.02.2020 at Mominara, Handipara, Raipur. In the said application, the respondent-wife alleged that a few months after the marriage, the applicant and his family members started demanding a motorcycle and a television as dowry. It was further alleged that the applicant and his family members restricted her social interactions and prevented her from meeting her relatives, friends, and parents, thereby subjecting her to mental and physical harassment. It was also alleged that she was taunted by her in-laws on the ground that she was not physically fit to give birth to a child. It was further alleged that on 20.08.2020, the respondent-wife went to her parental home on the occasion of Moharram for ten days. However, when she returned on 30.08.2020 along with her father, the applicant and his family members refused to take her back into the matrimonial home, and since then she has been residing separately at her parental home. In order to reconcile the marriage, a social meeting was arranged by the respondent's father on 01.09.2020; however, due to the non-participation of the applicant, the meeting could not be held. The respondent-wife claimed that the applicant earns a monthly income of Rs. 45,000/- from his work as a motor mechanic as well as from rental income, and on that basis sought maintenance of Rs. 22,500/- per month.

3. After issuance of notice, the applicant appeared before the learned Family Court and filed his reply to the maintenance application. In the reply, while admitting the undisputed facts, the applicant denied all other allegations. It was specifically stated that neither the applicant nor his family members ever subjected the respondent to mental or physical cruelty. On the contrary, it was contended that the respondent-wife exhibited cruel behavior towards the applicant's mother and other family members, failed

to perform her matrimonial duties, and repeatedly threatened to commit suicide. Due to her conduct, written complaints were also made to the police and the State Women Commission. It was further stated that the applicant earns only about Rs. 7,000/- per month, out of which approximately Rs. 3,000/- is spent on the medical treatment of his mother, and the remaining amount is used for household expenses, leaving no surplus income. It was further contended that the respondent-wife is well educated and engaged in "Silai/Kadhai" work, from which she earns approximately Rs. 10,000/- per month. It was asserted that the maintenance application was filed by suppressing these material facts and therefore deserved dismissal. However, the learned Family Court, after considering the evidence adduced by both parties, concluded that the applicant is earning Rs. 45,000/- per month and accordingly directed him to pay maintenance of Rs. 7,000/- per month to the respondent-wife with effect from 02.09.2023.

4. Learned counsel appearing for the applicant submits that the impugned order is illegal, erroneous, and contrary to law and, therefore, is liable to be set aside. The learned Family Court, while passing the impugned order, failed to properly appreciate the affidavits filed by the parties, particularly the affidavit of the applicant. The learned Family Court did not properly consider the averments and declarations made by the applicant in his affidavit regarding his actual income. The learned Family Court failed to appreciate that the mother of the applicant is wholly dependent upon him and that he incurs regular expenses towards her medical treatment and medicines, which ought to have been taken into consideration while determining the quantum of maintenance. The learned Family Court, in the present case, acted in a one-sided manner and appeared to have unilaterally relied upon the application, documents,

affidavits, and evidence adduced by the respondent–wife, without proper scrutiny. The learned Family Court has erroneously concluded that the applicant’s income is Rs. 45,000/- per month merely on the basis of a declaration made by the respondent–wife and has treated the same as gospel truth, without any supporting documentary evidence. The learned Family Court failed to appreciate the cross-examination of the respondent–wife and her father, Hamid Ali, which amounts to gross negligence on the part of the Court. The learned Family Court also failed to consider the complaints lodged by the applicant and his sister against the respondent–wife, which clearly indicate her cruel behavior and intention to falsely implicate the applicant and his family members. The Court further failed to appreciate that during cross-examination, the respondent–wife and her father admitted that there is no documentary proof to substantiate the allegations made in the maintenance application. It is a settled principle that in all maintenance proceedings filed by a wife, the Family Court is duty-bound to ascertain the truthfulness of the claim. In the present case, the application under Section 125 of Cr.P.C. has been filed with the sole intention of extracting money from the applicant. During cross-examination, when a specific question was put to the respondent–wife as to whether she was willing to reside with the applicant, she remained silent, which clearly demonstrates her intention to live separately without sufficient cause.

5. It is a fundamental requirement for grant of maintenance that the wife must be living separately from her husband for reasonable and sufficient cause. In the present case, the cross-examination of the respondent–wife and her father clearly reveals that she is residing separately without any justifiable reason. The allegations leveled against the applicant and his family members are vague and general in nature, with no specific

instances of harassment mentioned. Furthermore, the maintenance application was filed almost three years after the respondent-wife started living separately, which itself indicates that there was no immediate necessity or financial hardship. The learned Family Court failed to consider the cross-examination of the respondent-wife's father, wherein he admitted that the applicant's sister had filed domestic violence proceedings against the respondent-wife. From a cumulative and careful analysis of the cross-examination of the respondent-wife and her father, it is evident that the maintenance application has been filed on concocted facts with the sole intention of extorting money from the applicant. Therefore, the impugned order granting maintenance deserves to be quashed, as the essential ingredients of Section 125 of the Cr.P.C. have not been satisfied by the respondent-wife.

6. On the other hand, learned counsel for the respondent 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.
7. I have heard learned counsel for the parties, perused the pleadings and documents appended thereto.
8. 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.
9. Accordingly, the criminal revision being devoid of merit is liable to be and

is hereby **dismissed**.

- 10.** Let a certified copy of this order as well as original record be sent to the concerned trial Court for necessary information and compliance forthwith.

**Sd/-
(Ramesh Sinha)
Chief Justice**

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