

(2018) 02 CHH CK 0203

Chhattisgarh High Court

Case No: Criminal Revision No.294 Of 2017

Manohar

APPELLANT

Vs

Sushila

RESPONDENT

Date of Decision: Feb. 12, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 397, 401
- Code Of Criminal Procedure, 1973 - Section 125
- Family Courts Act, 1984 - Section 19(4)

Hon'ble Judges: Arvind Singh Chandel, J

Bench: Single Bench

Advocate: Varunendra Mishra, Samir Singh

Final Decision: Dismissed

Judgement

Arvind Singh Chandel, J

1. The Applicant/husband has preferred this revision under Section 19(4) of the Family Courts Act read with Sections 397 and 401 of the Code of

Criminal Procedure against the order dated 12.7.2016 passed by the Judge, Family Court, Mahasamund, Camp Court at Saraipali in Miscellaneous

Criminal Case No.136 of 2015 allowing the application under Section 125 of the Code of Criminal Procedure of the Respondent/wife and awarding

her a sum of Rs.1,500/- per month as maintenance.

2. Facts of the case, in brief, are that both the parties were legally wedded couple. Their marriage took place on 28.3.2015. After the marriage, the

husband kept the wife happy for sometime, but thereafter, beating, ousted her of his house. The matter was reported by the wife. Even thereafter, the

husband did not take her back to his house nor did he give her any maintenance. The wife is dependent on her parents. The husband is working as a part-time sweeper. He has an agricultural field in the name of his father. Reply of the husband was that marriage of the wife was performed with him concealing her mental illness. The wife had left his house at her own will after the panchayat meeting and she is living separately at her own will.

The husband himself is unable to maintain him as he earns a sum of Rs.1133/- per month only from his part-time job of sweeper.

3. After recording of the evidence, the Family Court allowed the application of the wife and granted her Rs.1,500/- per month as maintenance on the ground that the husband is employed as a part-time sweeper and is a person of sound health. Hence, this revision.

4. Learned Counsel appearing for the Applicant/husband submits that the Family Court did not appreciate the fact that the Respondent/wife is mentally ill. He tried to provide her medical assistance, but she filed the application for grant of maintenance. She has levelled a false allegation that the husband has performed a second marriage which she could not prove which amounts to a mental cruelty to the husband.

5. Per contra, Learned Counsel appearing for the Respondent/wife supported the impugned order.

6. I have heard Learned Counsel appearing for the parties and perused the record with due care.

7. A perusal of the record reveals that the Applicant/husband failed to prove the fact that at the time of marriage, fact of mental illness of the Respondent/wife was concealed from him. There is nothing on record to show that the wife is mentally ill. From the evidence on record, it is

established that the Respondent/wife is residing separately due to sufficient reason. She is unable to maintain herself, therefore, the grant of maintenance in her favour is just and proper. The husband is employed as a part-time sweeper and thereby he earns a sum of Rs.1133/- per month.

He is a 26 years old healthy person. He can enhance his earning by working as a labour also. In these circumstances, the grant of maintenance of Rs.1,500/- per month is just and proper.

8. Resultantly, the revision is dismissed.

9. Record of the Court below be sent back along with a copy of this order forthwith.