

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 199 of 2015

1. Smt. Rajni Joshi (Tiwari) W/o Late Manoj Joshi, aged about 25 years, R/o Bilaspur, at present add. Election Office Branch Collector Office Bilaspur Distt. Bilaspur C.G.

---- Applicant/Petitioner

Versus

1. Smt. Rambha Devi Joshi W/o Late G.P. Joshi, aged about 50 years, R/o Mata Temple Darbha Tah. Darbha Distt. Bastar C.G.

---- Non-applicant/Respondent

For Applicant – Shri Amit Kumar, Advocate.
For Non-applicant – None, though served.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

20/04/2015

1. By this order criminal revision filed under Section 19 of the Family Courts Act, 1984 is being disposed of as the applicant has challenged the legality and propriety of the order for the interim maintenance passed by the Court below dated 10-02-2015 passed in MJC No.100/14 [Smt. Rambha Devi Joshi v. Smt. Rajni Joshi (Tiwari)] whereby and whereunder the Judge, Family Court, Jagdalpur while allowing the application for interim maintenance filed by the non-applicant held that as the present applicant was given service on compassionate ground since her husband/son of the non-applicant died in a naxali accident on 25-05-2013 and as the present non-applicant is having no means to maintain herself and it is duty of the applicant to provide for maintenance of the non-applicant and ordered the applicant to pay Rs.3000/-

per month as interim maintenance, as a interim measure till final disposal of the said MJC.

2. The applicant has challenged the impugned order of the trial Court and has taken the grounds that there is no provision to give maintenance by daughter-in-law to mother-in-law and also the applicant gave Rs.2,50,000/- to the non-applicant on 26-06-2013 and 04-10-2013, the learned family court failed to consider the fact that the non-applicant is able to maintain herself and also having sufficient means to maintain herself.

3. During final argument, learned counsel for the applicant duly supported the criminal revision filed on behalf of the applicant and submitted that the petition/revision may be allowed and judgment impugned may be set aside.

4. As the non-applicant not represented even after service of notice, for disposal of this criminal revision, this Court has to see whether any illegality, impropriety and incorrectness is in the impugned order.

5. The learned trial Court held that after the death of husband of the applicant and son of the non-applicant, namely, Manoj Joshi, the present applicant was given service on compassionate ground and she is earning Rs.18,000/- per month, hence, it is duty of the present applicant to provide for the maintenance of non-applicant. With this, the trial Court allowed the petition in part and ordered that the applicant is directed to pay Rs.3,000/- as interim maintenance.

6. So far as the interim maintenance is concerned, initially there is no provision in Section 125 of the Cr.P.C. that a daughter-in-law is to give maintenance to mother-in-law. Also with the fact that Rs.2,50,000/- is given to non-applicant by the applicant and the same fact is not held false by the trial Court. Looking to the entire facts and circumstances, in the considered view of

this Court, the trial Court has committed an illegality while awarding interim maintenance to the present non-applicant which requires interference.

7. On due consideration, the order impugned passed by the trial Court dated 10-02-2015 for awarding interim maintenance is hereby set aside. The trial Court is directed to dispose of the petition under Section 125 of the Cr.P.C. without being influenced by the observation made by this Court at the time of disposal of the present criminal revision.

8. Consequently, the criminal revision disposed of as allowed.

9. No order as to cost.

Sd/-
(C.B.Bajpai)
JUDGE

