



Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPSUR

CRIMINAL REVISION NO. 969 OF 2014

APPLICANTS

1. Smt. Bhuneshwari W/o Sohan Devangan, aged about 23 years.
2. Kumari Dolly D/o Sohan Devangan, aged about 3 years,
3. Kumari Damini D/o Sohan Devangan, aged about 9 months,

The applicant no. 2 & 3 being minor through natural guardian mother Smt. Bhuneshwari W/o Sohan Lal Devangan, all are presently resident of Village Markamtola, Police Station & Tahsil Khairagarh, District Rajnandgaon C.G.

VERSUS

NON-APPLICANT :

Sohan Devangan S/o Chhabiram Devangan, aged about 28 years, R/o Village Madhiyapar, Post Hirri, Police Station Bori, Tahsil Dhamdha, District Durg C.G.

(Non-Applicant in Family Court)

CR 969/14
Presented by Shri. Rakesh Pandey
Dated 22/12/14

Dev

(5)

(2)

CRIMINAL REVISION UNDER SECTION 19 (4) OF THE
FAMILY COURT ACT

Being aggrieved by order passed by the Judge Family Court, Circuit Court Khairagarh, District Rajnadaon C.G. and presided over by Shri Nirmal Minj in Miscellaneous Criminal Case No. 03/2013 "Smt. Bhuneshwari & others Vs. Sohan Devangan" dated 13.11.2014 whereby the application filed by the applicant no. 2 and 3 has partly been allowed and application for maintenance regarding applicant no. 1 has been dismissed. A copy of order dated 13.11.2014 is annexed herewith as **Annexure C/1.**

HIGH COURT OF CHHATTISGARH, BILASPUR**Single Bench : Hon'ble Shri Justice M.M. Shrivastava****Criminal Revision No.969 of 2014****Applicants**

Smt. Bhuneshwari and others

Versus

Respondent

Sohan Devangan

Criminal Revision under Section 19(4) of the Family Court Act**Appearance:**

Shri Rakesh Pandey and Shri Abhishek Pandey, Advocates for the applicants.

Shri S.K.Guha, Advocate for the respondent.

ORDER

(27-02-2015)

1. By this revision, the applicant wife is assailing the order to the extent the Court below has rejected her application for her maintenance. Prayer has also been made for enhancing the amount of maintenance of 2 minor daughters.
2. Learned counsel for the applicants argued that the applicants led cogent evidence to prove that she was being subjected to ill treatment and cruelty by the respondent husband, therefore, she is justified in living separately. The Court below has disbelieved the aforesaid evidence, even though the husband did not enter in the witness box. It is next contended that the Court below awarded very meager amount of Rs.700/- to each of the minor children which is too insufficient for even bare maintenance of food and clothing of growing children.
3. On the other hand, learned counsel for the respondent opposed and submitted that the applicant having suffered a decree of restitution of conjugal rights under Section 9 of the Hindu Marriage Act filed by the respondent cannot claim that she is justified in living separately. It is next contended that the respondent has meager means and has only 5 acres of agricultural land and old parents are also dependent upon him.

4. It is not disputed that there is a decree passed in favour of the respondent husband and against applicant No.1 for restitution of conjugal rights. It could not be pointed out to this Court as to whether the decree was challenged or reversed or there is any stay against such decree, therefore, the Court below has not committed any illegality in disbelieving the evidence of cruelty on the face of decree of restitution of conjugal rights and recording a finding that the wife is not justified in living separately. Therefore, rejection of application of applicant No.1 does not warrant any interference. So far as awarded maintenance of Rs.700/- to each of the daughters is concerned, in opinion of this Court, the amount appears to be insufficient to maintain bare needs of food and clothing of growing children who are said to be aged 3 years and 9 months. Looking to the means of income being agricultural land to the extent of 5 acres and the wife having stated regarding non-applicant/respondent also engaged in sale and purchase of clothes, it would be appropriate to enhance the amount of maintenance payable to the children. Accordingly, it is directed that the respondent shall pay Rs.1000/- monthly maintenance to each of the children namely Kumari Dolly and Kumari Damini, with effect from the date of the application.

5. In the result, the revision is partly allowed.

Sd/-
Manindra Mohan Shrivastava
Judge