

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 944 of 2015**

Anutosh Majumdar, S/o. Paritosh, Aged About 28 Years, R/o. C/o Radhakrishna Mandir, Lohrapara Bhilai-3, District Durg, Chhattisgarh

---- **Petitioner****Versus**

1. Smt. Shikha Majumdar, W/o. Anutosh Majumdar, Aged About 28 Years.
2. Anushka Majumdar, D/o. Anutosh Majumdar, Aged About 8 Years.

Both R/o. At Present C/o Dileshwar Rao, Gitanjaly Rao, Nutan Chowk, Ekta Nagar, Bhilai-3, District Durg, Chhattisgarh.

---- **Respondents**

 For Petitioner : Mr. Gurudev I. Sharan, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****06/11/2015**

1. This petition is filed seeking review of the order dated 24.12.2014 wherein it is contended that though the claimant/applicant has prayed for an amount of Rs.3,000/- per month but actually the amount has been awarded Rs.5,000/-.
2. Learned counsel for the petitioner submits that during the pendency of case certain amounts were paid and as against claim made for Rs.3,000/- maintenance of Rs.5,000/- was awarded. Therefore the order is liable to be reviewed.
3. Admittedly, against the order dated 24.12.2014 which sought to be reviewed, a SLP was preferred before the Hon'ble Supreme Court which stood dismissed. After dismissal of such SLP again the review petition has been filed. Prima facie, it appears on the averments made in the review petition are misconceived and has been filed with an object to arrest and delay the payment of maintenance.

4. It is well settled principles of law that the petitioner seeks an opportunity to argue the entire case afresh on merit under the garb of the review petition, which is not permissible and tenable in law. It is also well settled that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh which would amount to convert the review petition into an appeal and the same is not sustainable in law.
5. Further, Hon'ble the Supreme Court in ***State of West Bengal and others Vs. Kamal Sengupta and another (2008) 8 SCC 612*** has laid down the principle of review that mistake or error apparent signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. Furthermore, the order was passed in exercise of power under Section 482 and in the criminal cases such right of review is not available, as the statute do not prima facie permit the same.
6. It appears that the petitioner having failed to convince the Hon'ble Supreme Court, again has adopted this method which is completely with an oblique motive and therefore, it is not a case for review of the order.
7. Accordingly, the petition is dismissed at the threshold with a cost of Rs. 5,000/- payable to the respondents.

Sd/-
(Goutam Bhaduri)
JUDGE