

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 319 of 2016**

Jayant Kumar Dadu S/o S. G. Dabu Aged About 34 Years R/o Kailash Nagar, Distt. Rajnandgaon Chhattisgarh

---- Applicant**Versus**

Smt. Tripti @ Shubi Dadu W/o Jayant Kumar Dahu Aged About 30 Years R/o Qr. No. 20 / 2, South Vasundara Nagar, Bhilai-3, Distt. Durg Chhattisgarh

----Non-Applicant

For Applicant:
For Non-Applicant:

Shri Aditya Bharadwaj, Advocate.
Shri Rudranath Mukherjee, Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

14.6.2016

1. The challenge in the present Revision is to the order dated 29.12.2015 passed by the Additional Principal Judge to the Family Court, Durg in MJC. No.537/2014, whereby the Family Court has passed an order of granting maintenance by the present Applicant to the Non-Applicant @ Rs.5,000/- per month.

2. Assailing the said impugned order, Learned Counsel for the Applicant submits that there is perversity in the finding by the Court below to the extent that it has not properly appreciated the evidence which has been adduced by the present Applicant so far as his source of income is concerned. He further submits that the Court below has also committed an error in not appreciating the fact that the Non-Applicant herself has accepted the average income of the present Applicant to be around Rs.10,000/- per month and therefore taking the said amount to be the income of the present Applicant, granting of

maintenance of Rs.5,000/- per month to the Non-Applicant is on the higher side and therefore, the same deserves to be interfered with.

3. Learned Counsel for the Non-Applicant however opposes the Revision and submits that it is a speaking order and all the contentions put forth by present Applicant have been duly considered by the Court below in the course of the passing of the impugned order and the same does not warrant any interference and prayed for rejection of the same.

4. Having considered the rival contentions and on perusal of the record, what is an admitted fact is that the Non-Applicant, at the time of the delivery of her first child, got inflicted with a disease called Koria and for which, she has to undergo continuous treatment which costs her around Rs.2,000 per month as is evident from the bills which were produced during the course of the evidence. In addition to these medical expenses, there are certain other expenses also for sustaining herself. From the evidence which has been adduced by the present Applicant as is also evident from paragraph-11 of the impugned order that there was a categorical statement and a stand taken by the present Applicant that he was not willing to keep her with him. This averment of the present Applicant towards his wife by itself is a prima facie proof of he not being ready to keep the Non-Applicant with him. Therefore, in the given facts, the Non-Applicant cannot be refused to be provided maintenance and for which the Court below has given its order for payment of Rs.3,000/- per month towards maintenance.

5. Considering the total facts and circumstances of the case, particularly the fact that the Non-Applicant is a sick lady and the present Applicant is not willing to keep her and also the finding of the fact that she requires

approximately Rs.2,000/- per month for medical expenses, this Court is of the opinion that the maintenance amount awarded by the Court below cannot be said to be exorbitant nor can it be said to be disproportionate to the income of the present Applicant calling for any interference with the impugned order.

6. In view of above, the instant Revision being devoid of any merits, the same is accordingly rejected.

Sd/-
(P. Sam Koshy)

JUDGE

Priya