

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Misc. Petition No. 526 of 2016

- Motiram, s/o Firanta, aged about 56 years, r/o Village-Kodebod, Police Out-Post Birejhar, Tehsil-Kurud, Civil and revenue District- Dhamtari (CG)
Presently resident- Motiram, s/o Firanta Bhatpaheri (JailGuard) G/o Jail Superintendent, district Jail Jaspur, Distt- Jaspur, (CG) (as mentioned in the order impugned)
presently resident- C/o Jail Superintendent, Central Jail, Distt- Raipur (CG)

– Petitioner

Versus

1. Girja Bai, Wd/o late Bhav Singh (wrongly mentioned Bhan Sinh in order impugned) Bhatpaheri now aged about 29 years
2. Kirtan, s/o Bhav Singh Batpaheri, now aged about 11 years through natural guardian his mother Girja Bai (Both are resident of village Umrpoti, PS-Utai, Tahsil and district - Durg (CG)

– Respondents

For Petitioner	:	Shri M.K. Baeg, Advocate
For Respondents	:	None appears

Hon'ble Shri Justice P.Sam Koshy

ORDER

14.06.2016

- 1) Present petition has been filed challenging the interim order dated 04.09.2015 passed by the First Additional Principal Judge, Family Court, Durg in case No.05 of 2014.
- 2) By way of the said impugned order, the Court below has granted interim maintenance payable by the present petitioner to the respondents @ Rs.1,500/- each.
- 3) Learned counsel for the petitioner submits that the said impugned order granting interim maintenance is bad in law

for the reason that there was already mutual divorce between respondent-1 and her late husband when he was alive on 01.05.2006 and therefore the respondents would not be entitled for any interim maintenance whatsoever. However, the counsel fairly admits that the above fact has not been brought to the knowledge of the family Court till date and the same is yet to be brought on record. Admittedly, the order under challenge is interim in nature granting interim maintenance of Rs.1,500/- each payable to the respondents by the present petitioner.

- 4) The final decision so far as the entitlement of the maintenance and also the quantification of the amount if it is to be paid, is yet to be done. The entitlement and consequences would be decided only after either of the parties are granted sufficient time for adducing the respective evidence to substantiate their contention.
- 5) Since the impugned order is only of interim in nature and the fact that Ex.P/3 which has been relied is yet to be brought to the notice of the family Court, at this juncture it would not be proper to interfere with the impugned order.
- 6) The petition, being devoid of merit, is liable to be and is hereby dismissed. However, the petitioner is at liberty to bring the above facts for consideration before the family Court.

Sd/-
(P.Sam Koshy)
JUDGE