

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 506 OF 2016**

1. Kahkasha Naj, wife of Mohd. Javed Memon, aged about 25 years,

2. Mohd. Ayaz Memom son of Javed Memon, aged about 7 months,

Minor through legal guardian mother Kahkasha Naj (Applicant No.1)

Both R/o Qtr. No.7-B, Street No.14, Sector-1, Bhilai, District Durg (CG)

---- **APPLICANTS**

Versus

- Mohd. Javed Memon son of late Abdul Rajjak Memon, R/o House No.208, Ameen Cenent Art, Santoshi Nagar, Raipur, District Raipur (CG).

---- **RESPONDENT**

For Applicants	:	Shri Jitendra Gupta, Advocate.
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Hon'ble Shri Justice P. Sam Koshy

Order On Board

13/06/2016

1. Challenge in this revision is to the order dated 09.05.2016 passed by the Illrd Additional Principal Judge, Family Court, Durg, in Misc. Criminal Case No.540 of 2014. Vide the said said order, the court below has rejected the claim application of the applicant No.1 for grant of maintenance, whereas, the applicants No.2 has been awarded maintenance of Rs.3000/- payable by the non-applicant/Respondent with effect from 10.04.2012.
2. In May, 2010, the applicant No.1 married the respondent. During the course of time, the applicant No.2 was also borne from the relations between applicant No.1 and respondent. However, in the year, 2012, the relations between applicant No.1 and respondent got strained and the

applicant No.1 is said to have filed an application under Section 125 Cr.P.C. before the Family Court Durg, seeking maintenance on account of fact that the respondent subjected her to cruelty and on account of which she left the matrimonial home and is living separately and as such she finds it difficult to sustain herself and her son i.e. applicant No.2.

3. The court below taking into consideration the entire facts and submissions raised by the either side, vide order impugned dated 09.05.2016 partly allowed the application, inasmuch as, the claim of the applicant No.1 was rejected, whereas, in respect of applicant No.2, it was allowed and awarded maintenance amount to the tune of Rs.3000/-per month.
4. Learned counsel appearing for the applicants assailing the said order dated 09.05.2016 submits that non granting of maintenance amount to the applicant No.1 for the reason that the standard of living of the applicant No.1 was similar to one maintained by the respondent is bad in law. This finding of the court below according to the counsel for the applicants is a perverse finding for the reason that applicant No.1 has admitted in her evidence that she was employed in M/s Om Sai Bajaj, Supela, Bhilai, but she is unable to sustain herself from the salary which she was getting from there, and therefore, rejection of her application for maintenance by the court below deserves to be set aside and she should be granted maintenance.
5. It was further submitted before the court below that the respondent, on the other hand, was basically a Stamp Vendor and now subsequently has got himself enrolled as an Advocate and is practicing as an Advocate and has sufficient source of income from which the applicant No.1 should also be suitably granted maintenance amount.

6. Having considered the submission put-forth by the counsel for the applicants and on perusal of record what is reflected is that, the applicant No.2 has already been granted maintenance amount to the tune of Rs.3000/- per month and further from the admitted facts which have come on record that the applicant No.1 is an employee of M/s Om Sai Bajaj and she is well qualified person and also had an additional professional knowledge of Electro Homeopathy which indicates that she is sufficiently capable of sustaining herself and maintaining a good standard of living similar to the standard maintained by the respondent.
7. Considering these findings of fact which have come before the proceedings in the court below, this court is of the opinion that the court below has not committed any error of facts or law while rejecting her claim under Section 125 Cr.P.C. calling for any interference under its revisional jurisdiction.
8. In view of the foregoing reasons, the revision being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
JUDGE