

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 745 OF 2016

Hemant Kumar Jangde, S/o Kamal Singh Jangde, aged about 38 years, occupation- Teacher (Shiksha Karmi), R/o Village- Bhandara, Tahsil & Thana- Kurud, District- Dhamtari, present residence of Village- Aamgaon, Tahsil- Nagari, Thana- Borai, Civil & Revenue District Dhamtari (C.G.)

... Petitioner

Versus

Smt. Sharda Jangde, W/o Hemant Jangde, aged about 34 years, R/o Village- Belar, Tahsil- Nagari, Thana- Borai, Civil & Revenue District Dhamtari (C.G.)

... Respondent

For Petitioner : Mr. Sunil Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/07/2016

1. The present petition under Section 482 CrPC has been preferred by the Petitioner-husband being aggrieved by the order dated 30.5.2016 passed by Family Court, Dhamtari in M.J.C. No. 128 of 2015.
2. Vide impugned order dated 30.5.2016, the Court below has directed the employer of the present Petitioner for deduction of Rs. 5000/-, as already awarded by the Family Court towards payment of maintenance, and depositing the same in the account of the Respondent-wife or in the CCD account of the Court.
3. Facts of the case in nutshell are that the Respondent-wife had earlier initiated a proceeding under Section 125 CrPC against the Petitioner-husband in the year 2008 and the Court below vide its order dated 28.5.2008 allowed the said application awarding of Rs.1500/- per month as maintenance in favour of the Respondent-wife. Subsequently, vide M.J.C. No. 51 of 2015 the Respondent-wife had again moved an

application under Section 127 CrPC for enhancement of the maintenance amount of Rs.1500/- which was awarded by the Court below and the Court below vide order dated 22.7.2015 had also allowed the said application under Section 127 CrPC and the maintenance amount was enhanced from Rs.1500/- to Rs.5000/- per month.

4. However, since there was a default in between on the part of the Petitioner-husband in payment of the maintenance amount awarded by the Court below, the Respondent-wife initiated an execution proceeding, registered as M.J.C. No. 128 of 2015, and the Court below vide its order dated 30.5.2016 has ordered for deduction of the amount of maintenance directly from the salary of the Petitioner-husband and deduction of the same by his employer to be deposited in the bank account of the Respondent-wife. It is this order which has been assailed by the Petitioner-husband before this Court.

5. Counsel for the Petitioner submits that he undertakes to deposit regularly the amount of maintenance payable to the Respondent-wife without fail and that if required the amount can also be deposited in the CCD account of the Court by the Petitioner to ensure that there is no default. He further gives an undertaking that there shall be no default on his part in payment of the maintenance amount.

6. However, a perusal of the impugned order by itself reflects that even on the date of passing of the said order there was an arrear of amount of Rs.8000/- payable to the Respondent-wife and therefore the Court below taking these facts into consideration ordered that the amount of Rs.5000/- payable as maintenance to the Respondent-wife be deducted from the salary of the Petitioner-husband and the same to be deposited in the bank account of the Respondent-wife or else the employer, i.e., the Block

Education Officer, Nagari can also deposit the maintenance amount in the CCD account of the Court referring to M.J.C. No. 128 of 2015.

7. The object behind passing of the said impugned order was only to ensure that the Respondent-wife does not suffer on account of the default of receiving the maintenance amount which she otherwise is entitled for as awarded by the Family Court. It further reflects that the need for passing of the said order had arisen because of the fact that there was some default in the payment on the part of the Petitioner-husband and even on the date of passing of the impugned order there was some arrears of money to be paid by the Petitioner-husband to the Respondent-wife.

8. In the opinion of this Court, there is no illegality or infirmity committed by the Family Court while passing the impugned order particularly taking into consideration the object and intention of the Court below behind passing of the said order.

9. Accordingly, the present Criminal Misc. Petition being devoid of merits the same is dismissed.

Sd/-
(P. Sam Koshy)
Judge