

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 751 of 2016**

Obhan Singh Sahu S/o Dayaram Sahu Aged About 57 Years
Occupation - Bhilai Steel Plant Senior Technician Grade-S-7, R/o
Block No. 129 H. Risali, Sector Bhilai, Post Office Risali, Tahsil &
Distt. Durg Chhattisgarh

---- Applicant**Versus**

Ramesh Kumar Sahu S/o Obhan Singh Sahu Aged About 14 Years
Minor Through Guardian Elder Brother Ganga Prasad Sahu, S/o
Obhan Singh Sahu, Aged About 33 Years, Present R/o Baigatola,
P.S. Somni, Tahsil & Distt. Rajnandgaon Chhattisgarh

---- Non-applicant

For Applicant

Shri Arvind Dubey, Advocate.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****12/08/2016**

1. By way of present Criminal Revision the Applicant intends to challenge the order dated 02.09.2015 in Misc. Criminal Case No. 50/2013 whereby the Judge, Family Court, Rajnandgaon in a proceeding initiated by the minor Non-Applicant under Section 125 of Cr.P.C. has allowed the application for grant of maintenance and ordered for payment of Rs. 1500/- p.m. to be paid to the Non-applicant.
2. Learned Counsel for the Applicant assailing the said impugned order submits that the proceeding under Section 125 of Cr.P.C. was initiated by the Non-applicant in the capacity of minor, but he was

being represented by an elder member of the family who himself could meet the requirement and maintenance of the Non-applicant minor.

3. He further submits that the Non-applicant minor is also by now is going to attain age of majority. Therefore, the amount of maintenance if at all is not entitled to be paid to the Non-applicant who is being maintained by the other family members.
4. True it is that the Non-applicant is a minor and very soon he is going to attain age of majority but from the averments in the pleading by the Applicant himself, he has not disputed the fact that the Applicant is not the father of the Non-applicant minor – Ramesh Kumar Sahu. The paternity of the Non-applicant is not in question though there were vague allegations against the mother of the Non-applicant having already conceived at the time of marriage but it was neither proved nor established before the Court below. Neither was there any DNA test conducted to establish the same. Therefore, for all practical purposes it is assumed that the present Applicant is the biological father of the Non-applicant.
5. Considering the total facts of the case more particularly since the actual dispute is between the present Applicant and the mother of the Non-applicant – Dukala Bai and paternity not been questioned or disputed. The Non-applicant should not be left to be maintained by other family member and not his father.
6. For all practical purposes the Non-applicant would be entitled for maintenance from his father who in the present case is the present Applicant.

7. Also, so far as the quantum of maintenance awarded by the Court below is concerned, Rs. 1500/- pm is only around Rs. 50/- per day. It can not be said that it is on higher side or exorbitant taking into consideration the present day living cost.
8. The present Criminal Revision being devoid of merits, the same is dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**