

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 1049 OF 2016

Vikas Rai S/o Shri Virendra Kumar Rai, aged about 42 years, R/o Hemu Nagar, in front of Ashok Video, Tahsildar Gali, Bilaspur, Tahsil and District Bilaspur (C.G.)

... Petitioner

Versus

1. Smt. Anamika Rai, W/o Vikas Rai, aged about 34 years.
2. Ku. Arnav Rai, S/o Vikas Rai, aged 3 years, Minor through natural guardian mother Smt. Anamika Rai.

Both R/o Devrikhurd, Police Station- Torwa, Bilaspur, Tahsil and District Bilaspur (C.G.)

... Respondents

For Petitioner : Mr. Devesh G. Kela, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/11/2016

1. Grievance of the Petitioner in the present petition is the order dated 30.8.2016 passed by the Family Court, Bilaspur in Misc. Criminal Case No. 594 of 2015, whereby the Court below in a proceeding under Section 127 of CrPC has enhanced the monthly maintenance amount from Rs.1000/- to Rs.1500/- payable to Respondent No.1-wife and from Rs.600/- to Rs.2000/- per month payable to Respondent No.2-minor son.

2. Counsel for the Petitioner submits that there is ample evidence which has been led by the petitioner-husband before the Court below whereby it is clear that it was respondent No.1-wife who had voluntarily left the company of the petitioner-husband and is living separately and that she otherwise on the basis of the evidences which have come on record would not be entitled for any maintenance. According to the Petitioner, he is ready to pay the maintenance amount to respondent No.2-minor son. He further submits that the Petitioner has made all efforts for keeping respondents No. 1 and 2 along with him but it is the adamant approach of

respondent No.1-wife on account of which she has refused to stay with the petitioner-husband.

3. It is further submitted by the Counsel for the Petitioner that respondent No.1-wife has a habit of taking unnecessary fight with the petitioner-husband and on account of which the Petitioner has lost his employment at more than a couple of places because of the fight which took place between the Petitioner and Respondent No.1-wife at the petitioner's place of work. He also submits that the petitioner-husband had also made efforts for taking the custody of respondent No.2-minor son and there was a compromise entered into between the Petitioner and respondent No.1-wife and the respondents No.1 and 2 had agreed to go along with petitioner for staying together but the respondent No.1-wife refused to honour the said compromise order and went along with the child and is staying separately instead of staying with the Petitioner. For all these reasons there is ample evidence for the rejection of the application for enhancement of maintenance moved by respondent No.1-wife.

4. Having heard the contentions put forth by the Counsel for the Petitioner, what is undisputed is the fact that the proceeding under Section 125 of CrPC has attained finality inasmuch as it was agreed between the parties for payment of Rs.1000/- and Rs.600/- respectively to Respondents No.1 and 2 as monthly maintenance. The said proceeding having attained finality the question of payment of maintenance to Respondents No.1 and 2 stands adjudicated upon and cannot be reviewed by this Court at this juncture in a proceeding under Section 127 of CrPC. As far as the application for enhancement of maintenance is concerned, the fact which cannot be brushed aside is that order granting maintenance was passed on 20.9.2012 in M.J.C. No. 360 of 2012 wherein the Petitioner had agreed for payment of maintenance to Respondents No. 1 and 2. For all these four

years of intervening period the cost of living has increased substantially. Respondent No.2-minor Arnav Rai has now reached school going age and therefore expenses towards Respondent No.2 definitely would be increased substantially.

5. Considering the total facts and circumstances of the case, this Court does not find any infirmity or illegality on the part of the Court below in enhancing the maintenance amount payable to Respondent No.1-wife by 500/- and to Respondent No.2-minor by Rs.1400/- in the given factual background of the case. Thus, no strong case for interference in the impugned order is made out.

6. The criminal revision being devoid of merits the same is accordingly dismissed. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge