

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 1091 OF 2016

- Bharat Soni, S/o Late N.R. Soni, aged about 42 years, R/o Amin Para, Police Station Purani Basti, Raipur, District Raipur (C.G.)

... Applicant

Versus

1. Smt. Anju Soni, W/o Bharat Soni, aged about 41 years.
2. Shivansh Soni, S/o Bharat Soni, aged about 17 years.
3. Abhinav Soni, S/o Bharat Soni, aged about 15 years.
No.2 & 3 are minor through their legal guardian father Bharat Soni (Applicant) R/o Amin Para, Police Station Purani Basti, Raipur, District Raipur (C.G.)
4. Abhya Soni, D/o Bharat Soni, aged about 12 years, through legal guardian mother Smt. Anju Soni (Non-applicant No.1)
No.1 & 3 are R/o House No. 693, LIG, Housing Board Colony, Sector-4, Saddu, Raipur, District Raipur (C.G.)

... Non-applicants

For Applicant : Mr. C.R. Sahu and Mr. C.K. Sahu, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/11/2016

1. The present Criminal Revision has been preferred by the Applicant against the order dated 11.8.2016 passed by the First Additional Principle Judge, Family Court, Raipur in Misc. Criminal Case No. 625 of 2013.
2. Vide impugned order dated 11.8.2016, the Court below in a proceeding under Section 125 of CrPC has allowed the application for grant of maintenance and has ordered the applicant-husband to pay an amount of Rs.3000/- per month to non-applicant no.1/wife and Rs.2000/- per month to non-applicant no.4/daughter.
3. Counsel for the Applicant submits that Non-applicants No. 2 and 3 are the two grown up sons of the Applicant and Non-applicant No.1 and they are residing with the applicant-husband and therefore he also needs substantial money for his survival and sustenance and also for sustaining the other dependants in the family. Counsel for the Applicant further

submits that it has come in the course of evidence that non-applicant no.1/wife runs a beauty parlour and has a sufficient source of income of at least Rs.15000/- per month with which she can easily maintain herself and on the contrary the applicant-husband does not have any strong financial background inasmuch as he is only a lawyer who earns only around Rs.5000/- per month being attached with the District Legal Services Authority. He further submits that the amount of Rs.3000/- awarded in favour of non-applicant no.1/wife and Rs.2000/- in favour of non-applicant no.4/daughter as monthly maintenance is beyond the paying capacity of the Applicant, and therefore has prayed for interference with the same and for setting aside/quashing of the same.

4. Having considered the contentions put forth by the Counsel for the Applicant and on perusal of the record what clearly reflects is the fact that apart from non-applicant no.1/wife who has deposed in support of her claim, non-applicant no.4/daughter, who is 11 years old, has also deposed before the Court and in the evidence she has made serious allegations against her father, the present Applicant. A perusal of the evidences which have come on record clearly reflect the conduct of the present Applicant and this Court does not find any strong reason to disbelieve the statement of AW-3, Ku. Abhya Soni, daughter of the present Applicant. Taking into consideration the averments made by the non-applicant no.1/wife as well as non-applicant no.4/daughter, this Court has no hesitation in reaching to the conclusion that there were justified reasons for them to move out of the matrimonial home and stay separately.

5. Now considering the issue of quantum of maintenance awarded, if we look into the amount awarded it would only reflect that non-applicant no.1/wife has been awarded Rs.3000/- as monthly maintenance which if distributed with 30 days of a month would come only Rs.100/- a day and

which is a minimum amount which would be required for a person to maintain a decent standard of living. So far as the amount of maintenance awarded to non-applicant no.4/daughter is concerned, it is only Rs.2000/- per moth which has been awarded in her favour. Taking into consideration her age she is admittedly a school going daughter of the present Applicant and Rs.2000/- a month cannot by any stretch of imagination be said to be exorbitant so as to meet the expenses of a school going girl required at her age and thus Rs.2000/- a month cannot be said to be on the higher side.

6. So far as the income of the present Applicant is concerned, this Court is of the opinion that the amount of maintenance which has been awarded by the Court below is the minimum which could have been awarded by the Court taking into consideration the present day cost of living. Even if the Applicant does not have any strong source of income or a fixed source of income that would not discharge him of his liability of maintaining his wife and daughter. Once when the marriage and the relationship of husband and wife or father and daughter is not disputed it is the bounded duty of the Applicant who is the husband and father of the two claimants to provide sufficient amount for a decent sustenance of the two claimants.

7. For the foregoing reasons, this Court is of the opinion that there is no illegality or infirmity on the part of the Court below in allowing the application under Section 125 of CrPC in favour of non-applicants no. 1 and 4.

8. The Criminal Revision being devoid of merits the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge