

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 1025 of 2015**

Indra Kumar Sahu S/o Late Jaglal Sahu Aged About 48 Years R/o
Village Devri, Post Khursuni, P.S. Arjunda, Tahsil Gundardehi, Distt.
Durg, Chhattisgarh.

---- Applicant**Versus**

1. Smt. Shakuntala Sahu W/o Indra Kumar Sahu Aged About 46 Years R/o Village Bhatagaon, Abhanpuri, Colony Raipur, Near New Tanki Raipur, Distt. Raipur, Chhattisgarh.
2. Shashank Sharva S/o Indra Kumar Sahu Aged About 20 Years R/o Village Bhatagaon, Abhanpuri, Colony Raipur, Near New Tanki Raipur, Distt. Raipur, Chhattisgarh.
3. Sourabh Sharva S/o Indra Kumar Sahu Aged About 18 Years R/o Village Bhatagaon, Abhanpuri, Colony Raipur, Near New Tanki Raipur, Distt. Raipur, Chhattisgarh.

---- Non-applicants

For Applicant: Shri R.S. Patel, Advocate

For Non-applicants: Shri B.P. Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****18.07.2016**

1. By way of the present Criminal Revision the Applicant has challenged the order dated 23.09.2015 passed in Misc. Criminal Case No. 649/2014 whereby the court below has allowed the Application under Section 125 of Cr.P.C. filed by Non-applicants No. 1, 2 & 3 to the extent directing the present Applicant to pay an amount of Rs. 5000/- p.m. to Non-applicant No.1 and Rs. 2500/- p.m. each to Non-applicants No. 2 & 3.

2. Assailing the said impugned order learned Counsel for the Applicant submits that he intends to challenge the impugned order only on two grounds. Firstly the fact that Non-applicant No.1 has been

staying separately from the present Applicant without any justified and reasonable cause. Secondly on 07.05.2008 there was an agreement struck between the Applicant and Non-applicant No.1 wherein Non-applicant No.1 had specifically stated that she has sufficient means to sustain herself as well as for taking care of Non-applicants No. 2 & 3. Therefore, she is not entitled at all times to come later in the life for claiming maintenance from the present Applicant. This stand of the Non-applicant claiming for maintenance is not justified and is contrary the agreement struck between the parties.

3. Having perused the record and considering the evidences which have come on record what is reflected is that there is ample reasons for the Non-applicant No. 1 to leave the company of the present Applicant that the present Applicant used to doubt character of the Non-applicant No.1 and had even doubted paternity of Non-applicant No.3 of being his son for which on the behest of the present Applicant DNA test was conducted under the proceedings which were going on separately before the Court below, where the DNA test failed and it was established that the present Applicant was in fact the father of the Non-applicant No.3. This very ground is sufficient for the wife not living with the husband and staying separately because there is an ugly allegation by the husband doubting the character of the wife to the extent of doubting paternity of the child born from the matrimonial relationship. In the opinion of this Court the findings of the Court below to that extent of there being sufficient ground on part of the Non-applicant No.1 to stay separately is writ large.

4. So far as second ground of there being an agreement entered between the Applicant and Non-applicant No.1, and the Non-applicant No.1 subsequently filing fresh proceeding under Section 125 is

concerned, the same would not be of the much relevance to the reason that admittedly the marriage still survives and Non-applicant No.1 is the legally wedded wife of the present Applicant. Further there is no dissolution of the said marriage. Further more what is more important is that at the relevant point of time in the year 2008 Non-applicant No. 1 might have been having sufficient source to sustain the family but in the event if subsequently at a later stage she has no means to sustain herself or family she has every right for claiming maintenance amount to be paid by the present Applicant who admittedly is the husband of the Non-applicant No.1. On this ground also findings of the Court below does not seem to be contrary to law or facts. In the opinion of this Court, the Court below has not committed any infirmity or illegality while reaching to the said conclusion that the Non-applicants are entitled for maintenance.

5. For the aforesaid reasons the Criminal Revision being devoid of merit, the same is rejected.

Sd/-

(P. Sam Koshy)
JUDGE