

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.1103 of 2015**

Prince Singh S/o Nirmal Singh Aged About 34 Years R/o Sada Colony, Near Manoranjan Grih, Behind Niharika Talkies, Korba, Civil & Revenue District - Korba Chhattisgarh

---- Applicant

Versus

1. Smt. Varsha Singh W/o Prince Singh D/o Sanjay Singh Aged About 25 Years R/o Kashyap Colony, Bilaspur, P.S. City Kotwali, District - Bilaspur Chhattisgarh

2. Siddhartha @ Vivan S/o Prince Singh, Vali -Mother Smt. Varsha Singh R/o Kashyap Colony, Bilaspur, P.S. City Kotwali, District - Bilaspur Chhattisgarh

-----Non-Applicants

For Applicant:

Shri Ashutosh Shukla, Advocate.

For Non-Applicants:

Shri Sourabh Sharma, Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

9.8.2016

1. The present Revision Petition has been filed challenging the order passed by the Family Court, Bilaspur in Misc. Criminal Case No.295/2015 dated 9.11.2015, Vide the said impugned order, the Family Court, Bilaspur has in a proceeding under Section 125 Cr.P.C, awarded maintenance of Rs. 4,000 and 3,000/- to Non-Applicants No.1 & 2 respectively.

2. Learned Counsel for the Applicant assailing the said order, submits that the Court below has not appreciated the fact that the paying capacity of the Applicant was not sufficient too meet the maintenance amount awarded by

the Family Court. According to the Applicant, earlier he was an employee of a private Insurance Company and was getting sufficient income and off late, he has resigned from the said job and is presently surviving on the basis of tuitions that he takes for the local students from whom he is charging only Rs.250/- per month. He further submits that he has also produced an income certificate given by the Tahsildar showing that his income is about Rs.50,000/- per annum and which also establishes the fact that he is not in a position to pay the maintenance amount granted by the Court below. He further submits that it is a case where the Court below ought to have taken note of the fact that Non-Applicant No.1 has left the company of the Applicant as also her matrimonial home without any sufficient and cogent reason and therefore, they should not have been granted maintenance at all and the Applicant is still ready to stay with the Non-Applicants and keep them with him.

3. Learned Counsel for the Non-Applicants however opposing the Revision submits that the entire averments made by the Applicant are contrary to the evidence which has come on record. According to the Non-Applicants, the report of the Tahsildar so far as the income certificate is concerned, is an agricultural income that the Applicant receives. However, the actual income of the Applicant is reflected from Annexure A-2, which is an audit report of the coaching center namely Spark Educational Welfare Society run and managed by the Applicant of which Annexure A-2 is an audit report for the year ending 31.3.2015. Drawing attention of the Court to the said report, he submitted that the income of the Applicant's institution itself shows that he is earning more than Rs.2 lacs per annum by way of fees from the students apart from other incomes also and as such the amount of maintenance awarded by the Court below cannot be said to be on higher side

and the impugned order does not warrant any interference. In addition, the Respondent/wife has also stated that there was continuous ill-treatment and harassment which compelled the wife to leave the company of the Applicant.

4. Having considered the total facts and circumstances and the submissions put forth by either side, if we peruse the document annexed with the Revision, it clearly reflects that the Applicant is the Director of Spark Educational Welfare Society, which is a coaching center for students at Korba. Annexure A-2 with the Revision itself is an audit report which shows the income of the institution. In addition to that, the income certificate provided by the Tashildar perhaps is an income certificate pertaining to the agricultural income of the Applicant for the reason that the Tahsildar or the Patwari concerned have not referred to the audit report so far as the income from educational institution is concerned. Thus, if the income of the coaching institution as well as the agriculture is taken into consideration, then Rs.4,000/- as awarded to Non-Applicant No.1, if divided by 30 days of a month would roughly come to around Rs.130 per day which is neither exorbitant nor on the higher side. Likewise, maintenance amount of Rs.3,000/- to the son is also only Rs.100 per day which also cannot be said to be on the higher side.

5. A perusal of the records shows that Non-Applicant No.2/son has also reached to school going age i.e. 5 years and the educational expenses and other expenses also in the present days would require minimum of Rs.100 per day and therefore, the Court below cannot be said to have committed any error of law or of facts while awarding the maintenance of Rs.4,000/- to Non-Applicant No.1 and Rs.3,000/- to Non-Applicant No.2.

6. In view of above, the instant Criminal Revision being devoid of merits,
the same deserves to be and is accordingly rejected. Sd/-

(P. Sam Koshy)

JUDGE

Priya