

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 4 of 2016**

1. Smt. Bindu Jangde W/o Daynesh Jangde Aged About 28 Years R/o Ward No. 3 Imalibhatha Mahasamund, Thana & Tahsil - Mahasamund Civil & Revenue Distt. - Mahasamund Chhattisgarh
2. Minor Ku. Akriti Jangde D/o Daynesh Jangde Aged About 3 Months, Minor Through Natural Guardian Mother Smt. Bindu Jangde W/o Shri Daynesh Jangde, Aged About 28 Years, R/o. Ward No. 3 Imalibhatha Mahasamund, Thana & Tahsil - Mahasamund Civil & Revenue Distt.-Mahasamund Chhattisgarh

---- Applicants**Versus**

Daynesh Kumar Jangde S/o Balidas Jangde Aged About 33 Years Occupation Service In Chhattisgarh Public Service Commission Raipur, R/o L I G 1017, Sector 6 Housing Board Colony Saddu, Post - Saddu Raipur, Thana - Pandari (Mova) Tahsil - Raipur, Civil & Revenue Distt. - Raipur Chhattisgarh

---- Non-applicant**And****Criminal Revision No. 20 Of 2016**

Dynesh Jangde S/o Balidas Jangde Aged About 33 Years R/o L.I.G. 1017, Sector 06, Housing Board Colony Saddhu Raipur, P.O. Saddhu Raipur, Police Station Pandari (Mowa) Tahsil And District Raipur Chhattisgarh.

---- Applicant**Vs**

1. Smt. Bindu Jangde W/o Dyanesh Jangde Aged About 28 Years Occupation House Wife R/o Ward No. 3 Emlihata Mahasamund, Police Station, Tahsil And District Mahasamund Chhattisgarh.
2. Ku. Aakriti Jangde (Minor) M/o Smt. Bindu Jangde W/o Dyanesh Jangde, R/o Ward No. 3 Emlihata Mahasamund, Police Station, Tahsil And District Mahasamund Chhattisgarh.

---- Non-applicants

 For Smt. Bindu & Anr:

Shri Sunil Sahu, Advocate

For Dyanesh Jangde:

Smt. Ranjana Jaiswal, Advocate

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

18.07.2016

1. The present two Criminal Revision have been filed challenging the order dated 04.12.2015 passed in Misc. Criminal Case No. 28/2014 by the Family Court, Mahasamund.

2. The Criminal Revision No. 4/2016 has been preferred by the wife assailing the order impugned to the extent that rejecting the claim of the Applicant No. 1 i.e. wife is bad in law. Learned Counsel Sh. Sunil Sahu submits that the said order has been passed in a mechanical manner. Evidences which have been adduced by the Wife has not been properly appreciated by the Court below. He further submits that there has been a Police complaint made by the wife against the husband which too has not been taken note by the Court below. Therefore, prays for order to the extent that claim application seeking maintenance to wife from the husband be allowed.

3. Criminal Revision No. 20/2016 has been preferred by the husband assailing the other to the extent that the amount of Rs. 6000/- awarded by the Family Court as maintenance to the minor daughter of the Applicant and Non-applicant No. 1 i.e. Dynesh Jangde and Smt. Bindu Jangde. According to the learned Counsel for the Applicant in Criminal Revision No.20/2016, the admitted fact is that the husband is actually an employee of the State Government working as Assistant Grade-III, his take home salary is too meagre from which Rs. 6000/- p.m. has been ordered to be paid to the minor daughter as maintenance amount which is not only exorbitant but is also on higher side. Further the child is very small at this stage she would not require Rs. 6000/- pm for her sustenance particularly when she is not even

school going student which would incur school expense etc therefore prays for reduction of the said maintenance amount.

4. Taking into consideration the rival contentions put forth on either side and on perusal of record what is reflected is, so far as the wife is concerned there is a specific finding of the fact by the Court below that the husband has made sufficient efforts to bring the wife to stay along with him and also effort was made at the village elder level but the wife took an adamant stand not to go with the husband and remained at the parental home. Like wise it is also a finding of fact that alleged police complaint lodged by the wife is the report made after two months from the date of incident giving rise to a strong doubt. No proper justification for lodging of the report to the Police authority belatedly has been given by the wife. Even so far as ill treatment and demand of dowry are concerned the wife has not been able to substantiate, which is evident from the finding of facts recorded by the Court below.

5. On the contrary the fact that husband had tried to take back the wife and stay along with her stood established from Ex. D- 9 which is the report submitted by the husband before the Police Station, Mahasamund in this regard. It has been further corroborated by the statement of PW-4, Yashwant Kumar Jangde who had also accompanied the husband when he had gone for calling his wife. In the opinion of this Court finding of the Court below to the extent that the denial of maintenance to the wife is based on justified reasons and a finding of the fact and does not warrant any interference.

6. So far as amount of Rs. 6000/- per month in favour of the minor daughter, taking into consideration the entire facts and circumstances of the case what is reflected is, at the time of filing of the claim application the age of the minor child was only 3 months and today the child would

be roughly around 2 years of age and so far as sustenance of the 2 year child, Rs. 6000/- pm seems to be a big amount. Further another admitted fact is that at this stage she is not even incurring educational expenses. Further taking into consideration the fact that the husband is an Assistant Grade-III in the State Government whose take home income can not be said to be such that he can easily afford payment of Rs. 6000/- per month as maintenance amount to the minor child.

7. Taking into consideration the facts and circumstances of the case this Court is of the opinion that ends of the justice would meet if the amount of Rs. 6000/- awarded by the Court below is modified to the extent of Rs. 5000/- p.m. to be paid to the minor child Ku. Akriti Jangde. The impugned order is modified to the aforesaid extent and accordingly the minor child shall henceforth entitled for maintenance amount of Rs. 5000/- p.m.

8. Resultantly, the Criminal Revision No.4/2016 preferred by the wife is dismissed and the Criminal Revision No.20/2016 preferred by the husband is partly allowed to the aforesaid extent.

Sd/-

**(P. Sam Koshy)
JUDGE**