

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 913 of 2015

1. Novendra Kaushal S/o Late Pitamber, aged about 42 years (wrongly mentioned as Naveen Kaushal) R/o Harnabandha, Near Muktidham, Durg, Tahsil & Distt. Durg, CG.

**---- Applicant
Non-applicant**

Versus

1. Ahilya Bai W/o Naveen Kaushal, aged about 35 years.
2. Indresh Kumar S/o Naveen Kaushal, aged about 11 years.
3. Devvrat S/o Naveen Kaushal, aged about 4 years.

The non-applicants no.2 & 3 are Minors, represented through legal guardian mother Smt. Ahilya Bai, R/o Village Ganiyari, Post Rasmada, P.S. Pulgaon, Tahsil & Distt. Durg, CG.

---- Non-applicants

For applicant:

Shri D.N. Prajapati, Advocate

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

25/01/2016

1. Heard on admission.
2. Challenge in this revision is to the order dated 30.09.2015 passed by the Family Court, Durg in Misc. Criminal Case No.196/15 directing the applicant herein to pay monthly maintenance of Rs.2,000/- to the non-applicant i.e. Rs.800/- to the non-applicant No.1 and Rs.600/- each to the non-applicants No.2 & 3.
3. Facts of the case, in brief, are that the non-applicants filed an application under Section 125 Cr.P.C. before the Court below against the applicant herein contending, inter alia, that non-applicant No.1 married the applicant herein on 18.2.1996 and out of their wedlock, non-applicants No.2 & 3 have born. In the year 2007, the petitioner without there being any reason has deserted the non-applicant No.1. The financial condition of the non-applicant No.1 is not as such where she can maintain herself and her two minor children, whereas the applicant is working as Conductor in Naveen Transport, Durg and earns about Rs. 8,000/-per month. The applicant also

owns sufficient agriculture land and earns about Rs.3,00,000/- per annum from it. On the aforesaid grounds, the non-applicants have prayed for grant of monthly maintenance of Rs.7,000/- per month from the applicant. The applicant filed reply to the said application denying the averments made in the application. It has been specifically pleaded by the applicant that the non-applicants are not his wife & children respectively. It has been further contended that the applicant is working in Naveen Transport, Durg and gets Rs.3,000/- per month. The respondents have failed to file any document in support of their averment that the applicant owns agriculture land.

4. The Court below after hearing the parties in the matter and considering the material brought on record by both the parties, partly allowed the application filed under Section 125 of Cr.P.C. and awarded maintenance of Rs.2,000/- per month to the non-applicants i.e. Rs.800/- to non-applicant No.1 and Rs.600/- each to remaining non-applicants.
5. Counsel for the applicant submits that the family Court while passing the impugned order has not taken into consideration the fact that the non-applicant No.1 is not legally wedded wife of the applicant and thus not entitled to receive any maintenance under Section 125 of Cr.P.C. He further submits that the non-applicants have failed to produce any documentary evidence relating to income of the applicant. He further submits that legally wedded wife of applicant and children born out of their wedlock are also dependent on him and therefore the maintenance awarded by the Court below in favour of the non-applicants is on the higher side.
6. In the instant case, the Court below considering the income of the applicant, which is apparent from the fact that the applicant gets Rs.3000/- per month as salary and he also owns six acres of agricultural land, directed him to pay maintenance of Rs.2,000/- (800+600+600) to the non-applicants, which appears to be just and proper in view of the valuation of money and hike in prices at the present time.
7. Consequently, I do not find any reason to interfere with the order impugned. The revision being without any substance is liable to be dismissed and is, accordingly, dismissed at the admission stage itself.

Sd/-

(Pritinker Diwaker)

Judge