

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 43 of 2016

Mohd. Sageer Qureshi S/o Mohd. Bafai Qureshi Aged About 35 Years
R/o Musalman Mohalla, Karbala Chowk, Baloda, District Janjgir
Champa Ch

---- Applicant

Versus

1. Smt. Tarmin Fatima, W/o Mohd. Sageer Qureshi Aged About 31 Years
R/o Musalman Mohalla, Karbala Chowk, Baloda, District Janjgir
Champa Chhattisgarh At Present R/o Awas No. M-166, Ompur Colony,
Rajgamar, Tahsil And District Korba Chhattisgarh.
2. Lareb Qureshi S/o Mohd. Sageer Qureshi Aged About 8 Years At
Present R/o Awas No. M-166, Ompur Colony, Rajgamar, Tahsil And
District Korba

-----Non-Applicants

For Applicant:	Shri Anil Gulati, Advocate.
For Non-Applicants:	Shri MK. Baeg, Advocate.

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

20.9.2016

1. The present Revision Petition has been preferred assailing the order dated 20.11.2015 passed by the Family Court, Korba in Misc. Criminal Case No.45/2014 whereby the Court below, in a proceeding under Section 125 Cr.P.C, has awarded an amount of Rs.2,000/- to Non-Applicant No.1 and an amount of Rs.1,000/- to Non-Applicant No.2.
2. Learned Counsel for the Applicant assails the impugned order firstly on the ground that the Court below has not appreciated the evidence which has come on record and has also not appreciated the fact that Non-Applicant No.1 is a lawyer by profession and therefore she has sufficient means to sustain herself and therefore, the maintenance amount awarded to Non-Applicant No.1 is not proper, legal and justified. In addition, the second ground assailing

the impugned order is that the Petitioner does not have sufficient means to provide maintenance amount awarded by the Court below. He further submits that it is a case where there is no dispute to the fact that Non-Applicant No.1 is Law Graduate and has also started practicing law and therefore, there is all possibility of her earning sufficient means to maintain herself and in the given facts and circumstances, she should not have been awarded the maintenance. He further submits that so far as the maintenance amount awarded to Non-Applicant No.2 is concerned, the Applicant does not oppose the same and he is ready to abide by the same and prays for quashment of the order to that extent.

3. Learned Counsel for the Non-Applicants opposes the Revision and submits that the order of the Court below is a well reasoned speaking order and does not warrant any interference. Further, the award passed by the Family Court, Korba granting maintenance of Rs.2,000/- is also bare minimum amount. He further submits that in today's cost of living, an amount of Rs.2,000/- awarded by the Court below cannot be said to be exorbitant nor can it be said to be on the higher side for the reason that with Rs.2,000/-, it would be very difficult for any person to survive and sustain a decent standard of living.

4. Considering the submissions made by either side and on perusal of the records, what clearly reflects is the undisputed fact of the relationship of husband and wife between the Applicant and Non-Applicant No.1. The mandate of Section 125 Cr.P.C clearly stipulates that in the given facts and situation, it is the duty of the husband to maintain the wife and to provide sufficient means so that she can have a decent standard of living. The Applicant cannot avoid maintaining his family only by taking the ground that he

does not have sufficient means to maintain his family. Once when the Applicant/husband accepts the fact that he has married to Non-Applicant No.1 and from the said marital relationship, they also have a son born, it is the bounden duty of the Applicant/husband to arrange for sufficient means so that the wife and children can have a decent standard of living. In the event the Applicant/husband fails to discharge the duty of husband and avoids maintaining his family, then the Court below cannot be faulted in granting maintenance on the part of the Husband.

5. It would be trite at this juncture to refer to the recent decisions of the Supreme Court reported in **AIR 2014 Supreme Court 2875** (*Bhuwan Mohan Singh vs. Meena and Ors.*) and also **AIR 2015 Supreme Court 2025** (*Shamima Farooqui vs. Shahid Khan*) wherein the Supreme Court has categorically held that irrespective of the ability of a wife to earn something, it is the duty of the husband to maintain his wife. Maintenance cannot be defeated on pleas that husband does not have means to pay, for he does not have a job or his business is not doing well.

If the husband is healthy, able bodied and is in a position to support himself, he is under legal obligation to support his wife.

6. In the opinion of this Court, in the light of the evidence which has come on record, the Court below has not committed any illegality or infirmity while reaching to the conclusion of granting maintenance to Non-Applicant No.1.

7. Consequently, the instant Criminal Revision being devoid of merits, the same is liable to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE