

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 591 of 2016**

Mahesh Verma S/o Gopal Verma Aged About 29 Years R/o Village Kodwa,
Police Station Palari, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Applicant**Versus**

Jagriti Verma, W/o Mahesh Verma, aged about 28 years, R/o Village Saantra,
Post Saantra, Tahsil Patan, District Durg (CG)

-----Non-Applicant

For Applicant:	Shri Parth Pritam Sahu, Advocate.
For Non-Applicants:	None.

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

22.7.2016

1. The present Revision Petition has been preferred challenging the order dated 7.5.2016 passed in Criminal Appeal No.29/2015 by the 8th Additional Sessions Judge, Durg. By way of the said order, the Lower Appellate Court has, affirming the order of JMFC, Patan, Durg in Misc. Criminal Case No.2/2014, granted maintenance to the Non-Applicant under the provisions of Section 12 of the Protection of Women from Domestic Violence Act (henceforth 'the Act') to the extent of Rs.8,000/- per month. However, the lower Appellate Court, while passing the order, has modified the order of the JMFC, Patan to the extent that the Court below has ordered that from the said amount of Rs.8,000/- which has to be paid under the Act, the amount to be paid by the Applicant to the Non-Applicant from a proceeding under Section 125 Cr.P.C, where an order has already been passed to pay an amount of Rs.3,000/- per month to the Non-Applicants shall be adjusted. Thus, the effect of the impugned order would be that the present Applicant would have to pay

an additional amount of Rs.5,000/- under the Act in addition to the amount of Rs.3,000/- being paid to the Non-Applicant under the provisions of Section 125 Cr.P.C.

2. Assailing the said order, the present Applicant submits that the Court below has not properly appreciated the evidence which has been put forth by the Applicant firstly in fastening liability of Rs.8,000/- upon the Applicant and secondly, not appreciating the fact that the Non-Applicant had suppressed the facts from the Court below about the award already being passed in favour of the Non-Applicant in granting Rs.3,000/- as maintenance in a proceeding under Section 125 Cr.P.C and therefore, prayed that the order under challenge should be recalled to that extent. However, from the nature of evidence which has been adduced by the Non-Applicant which clearly establishes the fact that the Court below while reaching to the conclusion, was fully satisfied on the basis of the evidence which was adduced by the Non-Applicant that a case under the Act prima facie has been established of being committed by the Applicant against the Non-Applicant and which has compelled the Non-Applicant in leaving her matrimonial home and stay separately and it was for this reason that the Court below ought to have reached to the conclusion that the Non-Applicant is entitled for compensation of Rs.8,000/-. So far as the contention of Learned Counsel for the Applicant with regard to suppression of the proceedings under Section 125 Cr.P.C and the award granted therein, the Lower Appellate Court has taken note of this fact therefore it had modified the award of JMFC to the extent of adjusting amount of Rs.3,000/- awarded in the proceeding under Section 125 Cr.P.C. As such while payment of maintenance is to be made under the Act, the said amount of Rs.3,000/- would be adjusted and the final amount would thus stand reduced. It is pertinent to mention that

even otherwise the law in this regard is that proceeding under the two Acts can be initiated and is also maintainable, further two separate awards can also be passed against the same person.

3. In the opinion of this Court, the 1st Appellate Court has taken into consideration all the contentions and submissions put forth by the Applicant before it and has discussed elaborately on these contentions and hence it does not warrant any further interference invoking the revisional powers of this Court.

4. The present Revision Petition, being devoid of merits, the same is accordingly rejected.

Sd/-

(P. Sam Koshy)

JUDGE