

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 38 of 2015

1. Sunil Giri S/o Chandrika Giri Aged About 36 Years R/o House No. 224, Indra Nagar, Jamnipali, P.S. Darri, Tahsil Katghora, Distt. Korba C.G.
2. Anil Giri S/o Chandrika Giri Aged About 34 Years R/o House No. 224, Indra Nagar, Jamnipali, P.S. Darri, Tahsil Katghora, District Korba, C.G.
3. Asha Giri W/o Anil Giri Aged About 32 Years R/o House No. 224, Indra Nagar Jamnipali, P.S. Darri, Tahsil Katghora, District Korba, C.G.
4. Chandrika Giri S/o Late Balram Giri Aged About 67 Years R/o House No. 224, Indra Nagar Jamnipali, P.S. Darri, Tahsil Katghora, District Korba, C.G.
5. Smt. Kanta Giri W/o Chandrika Giri Aged About 62 Years R/o House No. 224, Indra Nagar Jamnipali, P.S. Darri, Tahsil Katghora, District Korba, C.G.
6. Pradeep Giri S/o Sachidanand Giri Aged About 40 Years R/o through House of R.P. Singh, Indra Nagar, Jamnipali, P.S. Darri, Tahsil Katghora District Korba, C.G.
7. Smt. Seema Devi W/o Pradeep Giri Aged About 37 Years R/o through House of R.P. Singh, Indra Nagar, Jamnipali, P.S. Darri, Tahsil Katghora District Korba, C.G.

---- Applicants

Versus

1. Smt. Lilawati Giri W/o Sunil Giri Aged About 33 Years R/o Khapra Bhata, Kashi Nagar, Behind Ravi Sweets, Niharika Road, Korba C.G.
 2. Ku. Jyoti Giri D/o Suni Giri Aged About 15 Years R/o Khapra Bhata, Kashi Nagar, Behind Ravi Sweets, Niharika Road, Korba C.G.
 3. Abhijeet Giri S/o Sunil Giri Aged About 13 Years R/o Khapra Bhata, Kashi Nagar, Behind Ravi Sweets, Niharika Road, Korba C.G.
 4. Ku. Arti Giri D/o Sunil Giri Aged About 11 Years R/o Khapra Bhata, Kashi Nagar, Behind Ravi Sweets, Niharika Road, Korba C.G.
- Respondent No.2 to 4 minor respondent No.1 i.e. mother Smt. Lilawati Giri, W/o Sunil Giri.
5. The District Collector, Korba, District-Korba, Chhattisgarh

---- Respondents

For applicants - Shri Ashish Gupta, Advocate.

For respondents No.1 to 4 – Shri Sandeep Dubey, Advocate.

For Respondent No.6/State – Shri Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****25/01/2016**

1. Petition is against the order dated 9th October, 2014 passed in Criminal Revision No.71/2014 by the Second Additional Sessions Judge, Korba whereby order dated 14/07/2014 passed by the court of CJM Korba in case bearing No.08/2014 in between Smt. Leelavati Giri & Ors. Vs. Sunil Giri & Ors. has been affirmed.
2. Facts of this case are that wife Smt. Leelavati Giri had filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and Section 23 (2) of the said Act whereby initially trial court has directed for payment of Rs.4000/- as an interim maintenance.
3. Learned counsel for the applicants submits that court below has wrongly exercised its jurisdiction as there cannot be joint direction for payment of interim maintenance. He submits that no evidence is on record about income of the applicant husband. Consequently, court below could not have directed for payment of the compensation to the respondents. Learned counsel therefore submits that order for payment of compensation be stayed.
4. Learned counsel for the respondents vehemently opposes the petition and would submits that though order of interim maintenance was passed in the month of July, 2014 but till then no payment has been tendered. He further submits that respondents being wife and the children it is obligation of the husband to maintain respondents and the respondent was subjected to extreme cruelty in as much as below knee one of the leg was cut by applicant No.1 and further wife was subjected to burning by cigarette. He further submits that even applicant No.1 was convicted under section 354 of IPC and under POSCO Act to outrage modesty of her own daughter.

5. I have perused the order of both the court below.

6. This fact is not in dispute that applicant No.1 is husband and respondents No.1, 2, 3 and 4 are wife and three minor children. Learned court below while dismissing has recorded the fact that applicant No.6 Pradeep Giri and applicant No.2 Anil Giri are working in Vandana Power Plant, Churi and BCPP Plant as Security Guard and it is recorded that all of them have committed domestic violence to the respondents and amount of Rs.16000/- and Rs.8000/- apart from the house rent being received by the applicant and his brother. Taking into fact that prima facie as has been recorded the applicants are receiving considerable amount working as security guard and taking into fact that interim maintenance has been ordered for, I do not find it a fit case to exercise jurisdiction vested with this court under Section 482 of Cr.P.C. Neither any jurisdictional error nor order show that court below has exceeded its jurisdiction or has committed jurisdictional error while passing order.

7. Consequently, Cr.M.P. is dismissed. However, trial court is requested to expedite the proceeding which is pending before it.

Sd/-

(Goutam Bhaduri)

JUDGE