

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 553 of 2016

- Damru Dewangan S/o Shri Madan Dewangan, Aged About 27 Years, R/o Chakradhar Nagar, Banglapara, Raigarh. Ps. Chakradhar Nagar, Tahsil Raigarh, and Civil & Revenue District Raigarh, Chhattisgarh.

---- Applicant

Versus

- Smt. Madhu Dewangan W/o Damru Dewangan, Aged About 22 Years, at Present R/o Sakti, P.S. & Tahsil Sakti, District Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant : Shri Abhishek Saraf, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board By

24/06/2016

1. The applicant through the preesent revision petition is challenging the order dated 08/04/2016 passed in Misc. Criminal Case No. 54/14 by the Family Court, Sakti, Janjgir-Champa, whereby the Court below has awarded an amount of Rs. 3000/- to be paid to the respondent as maintenance under Section 125 of the Code of Criminal Procedure.
2. Counsel for the applicant assails the said impugned order as bad in law on two counts for the reason that firstly the dispute between the parites was that the respondent-wife was pregnant prior to her marriage which shows she had some illicit relationship and secondly the maintenance of Rs. 3000/- per month awarded by the Court below is on the higher side and is beyond the paying capacity of the applicant.

3. Counsel for the applicant submitted that it is a case where the respondent has left her matrimonial home without any justified and satisfactory explanation and she has left her matrimonial home on her own voluntarily and therefore the present applicant would not be liable to pay maintenance to the respondent. He further submits that the present applicant had married with the respondent on 07/03/2014. On 12/04/2014, the respondent was not well and therefore she was taken to a lady doctor who on 02/12/2014 after examining the respondent told that the respondent was about six weeks pregnant. According to the applicant, if six weeks are to be taken backwards from 12/04/2014 it would relate to the period earlier to their marriage and therefore it appears that the respondent was having some illicit relationship outside with a third person even before her marriage and on account of which she might have got conceived. He further submits that there were also village meeting held in this regard and the applicant had also accepted her guilt before the village elders and for all these reasons the present applicant cannot be blamed for not keeping the respondent at his house nor should he be saddled with the liability of payment of maintenance amount to the respondent wife.
4. Undisputedly, the fact remains that the applicant and the respondent are till date husband and wife and their marriage has not been dissolved by any competent Court of law and there is no reason whatsoever that the husband should not take the responsibility of maintaining his wife.
5. Perusal of record which has been adduced before the Court clearly reflects that the respondent never had accepted her guilt of having some physical relationship outside with a third person prior to marriage. Rather, in her evidence she stated that the doctor examining her has stated that the calculation of six weeks is only an approximate calculation and it can have a difference of plus minus one week. The impugned order reflects that when the

fact of the respondent detected of being pregnant of six weeks, the present applicant is said to have called a village meeting, it is said that in the village meeting in which the village elders were also present, the present applicant had humiliated the respondent and had also casted aspersions on her character. Further, he has also initiated the proceeding for dissolution of the marriage before the Family Court at Raigarh. It is also the finding of the Court below that only because of the sonography result dated 12/04/2014 held that the respondent was pregnant by six weeks itself cannot be a determinative factor of the respondent having any physical relationship outside prior to her marriage. The fact that the present applicant has disowned the child in the womb of the respondent to be his and had also casted aspersions on the character of the respondent itself is a strong ground for a lady to leave her marital home particularly when there is no evidence to prove the allegations leveled against her. In addition, there is a finding by the Court below that the present applicant has not been able to substantiate the source of income of the respondent except by making an oral submission that she is working as a Teacher in one of the schools.

6. So far as the amount of Rs. 3000/- awarded by the Court below is concerned, if we divide the said amount on per day basis, it comes to Rs.100/- per day which by no stretch of imagination can be said to be an exorbitant amount taking into consideration today's cost of living and minimum standard of necessities. In the opinion of this Court, the maintenance awarded by the Court below is proper and justified.
7. For the foregoing reason, the present criminal revision being devoid of merits, the same is dismissed.