

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 611 of 2016

1. Smt. Anurag Kothari Shah W/o Amar Ajay Shah, Aged About 43 Years
2. Preet Shah S/o Amar Ajay Shah, Aged About 13 Years, Minor, Through Legal Gaurdian Mother Smt. Anurag Kothari Shah,

R/o - C/o Dr. P.N. Kothari 13/20 Balaji Ward, Near New Kerla Hotal, Jagdalpur, District Bastar Chhattisgarh

---- Applicants

Versus

- Amar Ajay Shah S/o Ajay Shah, Aged About 45 Years R/o - 8 Arihant Apartment, Laxmi Nagar, 8-Rasta Chauk Nagpur (Maharastra)

---- Respondent

For Applicants : Shri Subhash Yadav, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order On Board By

05/07/2016

1. Challenge through the present Criminal Revision is to the order dated 28/05/2016 passed by the Family Court, Bastar at Jagdalpur, District Bastar (C.G.) in Misc. Judicial Case No. 61/2015.
2. By way of the impugned order the Court below as an interim measure awarded an amount of Rs. 3000/- to the applicant No.1 and Rs. 1500/- to the applicant No. 2, thus, total amount of Rs.4500/- towards maintenance in a proceeding under Section 125 of the Cr.P.C.
3. Counsel for the applicants assailing the said interim order granted by the family Court submits that the Court below has not appreciated the source of income of the non-applicant while granting the interim relief. He further submits that non-applicant is running a business which was also not appreciated by the Court below and granted an interim maintenance which is not sufficient.
4. Having considered the total facts and circumstances of the case what is to be taken

note of is the fact that it was only an order of interim maintenance which has been awarded by the Court below. That at the stage of consideration of the interim application substantial evidence to show the actual source of income is not there it is only on the basis of averments and its counter submitted by either side which has been taken note off. The Court has already proceeded to decide the matter on evidence after recording of evidence and there is all likelihood of an early disposal of the main case itself.

5. In the opinion of this Court at this juncture it would not be proper for calling for the records and for appreciation of the averments and contention made by either side for deciding the present revision petition when the entire case is about to be decided on its merits by the Court below. In the absence of any concrete evidence so far as the actual source of income of the non-applicant is concerned the Court has therefore rightly drawn an assumption only till the 125 proceedings are finalised.
6. In the opinion of this Court no strong case is made out calling for interference with the impugned order and the revision petition deserves to be and accordingly rejected. However, it is expected that since the maintenance petition itself is pending since 2015 the Court below shall make all endeavour for an early disposal of the same, so far as the non-compliance on the part of the non-applicant even to the interim award granted it is observed that the applicants would have all remedies open to them under the law for getting the interim award executed.
7. With the aforesaid observation, the criminal revision is dismissed.

Sd/-

(P. Sam Koshy)
Judge