

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 633 of 2016

- V. Shailendra Kumar S/o Shri Govind Rao, Aged About 31 Years, R/o Flat No. 05, I I Floor, Lakshmigiri Regency, Sanjay Nagar, Bangalore (560072) Karnataka.

---- Applicant

Versus

- V. Radhika W/o Shri V. Shailendra Kumar, Aged About 28 Years, R/o Sector - 01, Shivanand Nagar, P.S. Khamtarai, Raipur Chhattisgarh.

---- Respondent

For Applicant : Shri Nimish Kiran Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board By

12/07/2016

1. Challenge in the present revision petition is the order dated 01/04/2016, passed in Second Additional Principal Judge, Family Court, Raipur, District – Raipur (C.G.) in Case No.555/14, whereby the Court below has awarded a sum of Rs.5000/- to be paid to the non-applicant as an interim maintenance under Section 125 of the Cr.P.C.
2. Counsel for the applicant assails the said impugned order submits that at present applicant is not in a condition to make the payments of interim maintenance to the non-applicant as he has lost his employment, which he was earlier possessing and now he is only to student and therefore he does not have the paying capacity to give any maintenance to the non-applicant. He further submits that the employment of the applicant had been lost because of the false criminal case which was filed by the non-applicant under Section 498 A of the IPC and Domestic Violence Act. He also submits that there is no likelihood of the main case itself being decided at the earliest and it would be difficult for him to make the maintenance amount of Rs.5000/- per month to the non-applicant till the conclusion of the case.
3. Having considered the total facts and circumstances of the case and also perusal of the impugned order it would clearly reflect that it is an admitted

position that the present applicant was in employment in a Company namely Matric Stream Company, Bangalore and drawing salary of Rs.70,000/- per month and that subsequently he has tendered his resignation. The finding of the Court below is whether the resignation of the applicant is accepted or not is not on record and therefore the Court below as an interim measure has ordered for payment of Rs.5000/- per month to the non-applicant during the proceedings under Section 125 of Cr.P.C.

4. Another fact which has to be borne in mind is resigning from a job from where he was earning 70,000/- per month and sitting idle at home and pursuing his studies, is something which is hard to believe this might have also weighed more in the mind of the Court below while allowing the interim maintenance.
5. In the opinion of this Court, the Court below has not committed any error of law or on fact while granting interim maintenance to the non-applicant. The revision petition being devoid of merits is hereby rejected. However, taking into consideration and the peculiar facts and circumstances of the case it is expected that the Court below shall try to dispose of the original matter under Section 125 of the Cr.P.C. as expeditiously as possible subject to the present applicant extending full co-operation for the early disposal.

Sd/-

(P. Sam Koshy)
Judge