

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 1104 of 2016**

Kameshwar Kothari S/o Loknath Kothari, aged about 30 Years, Caste- Satnami, R/o Ashish Nagar, Old House No.896, Streetan 3/C, Risali, Police Station Newai, Tahsil & District Durg, Chhattisgarh.

---- Applicant**Versus**

1. Smt. Nirmala Kothari W/o Kameshwar Kothari, aged about 28 Years, D/o Shri Parmeshwar Singh Dhritlahre, Caste Satnami, R/o Behind Kali Temple, Shiv Nagar, New Changorabhatha, Post Sunder Nagar, Police Station D.D. Nagar, Tahsil & District Raipur, Chhattisgarh.
2. Minor Ansh Kumar Kothari, aged about 7 Months S/o Kameshwar Kothari, through legal natural guardian mother namely Smt. Nirmala Kothari wife of Kameshwar Kothari, R/o Behind Kali Temple, Shiv Nagar, New Changorabhatha, Post Sunder Nagar, Police Station D.D. Nagar, Tahsil & District Raipur, Chhattisgarh.

---- Respondents

For Applicant : Shri Purnendra Khichariya, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****02/12/2016**

Present revision petition has been preferred assailing the order dated 07.10.2016 passed by the Principle Judge, Family Court, Raipur in Criminal M.J.C. No. 515/2015 whereby the Family Court in a proceeding under Section 125 of CrPC has allowed the application and directed the applicant to pay Rs.6,000 to respondent no.1 and Rs.2,000 to respondent no.2 per month as maintenance.

2. Counsel for the applicant submits that the amount of maintenance awarded by the Court below is on the higher side and it is beyond paying capacity of the applicant. He submits that the applicant has his own liability and it would be very difficult for the applicant to maintain himself as well as other persons dependant upon him. He

further submits that the salary of the applicant is only Rs.16,000/- per month and the Court below has awarded half of the amount which is not proper and justified. Hence, prayed for setting aside of the the impugned order.

3. Having considered the contention put forth by the counsel appearing for the applicant and on perusal of the records what is reflected is that the respondent no.1 wife has been able to establish before the Court below the compelling circumstances which led her to leave the matrimonial home. It has also come before the Court below that the applicant had once assaulted respondent no.1 for which a police complaint had also been lodged and this fact is not disputed by the applicant. Thus, this Court does not have any hesitation in reaching to the conclusion that the finding of the Court below of the respondent no.1 having sufficient reasons for leaving the matrimonial home was proper and justified.

4. So far as the quantum of the award is concerned, the applicant is working as a constable in the Police Department of CG and for all practical purposes it has to be accepted that respondents 1 & 2 are legally entitled for maintaining themselves a decent standard of living commensurate to the status of wife and son of a Constable in the Police Department. Therefore, the total amount of Rs.8,000/- which has been awarded to the respondents as maintenance cannot be said to be exorbitant or on the higher side.

5. Taking into consideration the entire factual matrix of the case and also the income of the applicant, this Court is of the opinion that the Court below has not committed any illegality in reaching to the conclusion of awarding Rs.6,000 per month to respondent No.1 and Rs.2,000 per month to respondent No.2 as maintenance particularly looking to the present day cost of living.

6. Accordingly, the revision petition being devoid of merit stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

Bhola