

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No. 1000 of 2015**

Rana Dutta S/o Sunil Dutta, aged about 30 years, Caste kayastha,
R/o 1 C , Block No.4, Q. No. 37, Doman Hill, PS. Chirmiri, PO
Sonwani, Tahsil Khadgawa, District Koriya (CG)

---- Applicant**Versus**

Smt. Rashmi Dutta W/o Rana Dutta, aged about 28 years, Caste
Kaystha, R/o 1 Bheem Dhafai, Doman Hill, PS Chirmiri, PO
Sonwani, Tahsil Khadgawa, District Koriya (CG)

---- Respondent

For Applicant	:	Shri Barun Ku. Chakrabarty, Advocate
For Respondent	:	Shri Vikash Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28/06/2016**

By way of the present revision petition the applicant has challenged the order dated 03.09.2015 passed by the Family Court, Manendragarh, District Koria in Misc. Criminal Case No. 5/12. By the said impugned order the Court below has allowed the application under Section 125 CrPC filed by the respondent/wife and ordered the applicant/husband to pay an amount of Rs.2,000/- per month as maintenance to the respondent.

2. Counsel for the applicant submits that the impugned order is bad in law for the reason that the Court below has not appreciated the fact that the applicant does not have sufficient financial strength to withstand the amount of maintenance as awarded by it. He submits that there is no evidence to prove the earnings of the applicant and in the absence of any such evidence, the Court below ought not to have granted maintenance of Rs.2,000/- to the respondent. He further submits that in given facts and circumstances of the case, if the maintenance amount is reduced, the

applicant is willing to pay the same to the respondent. Counsel for the applicant referred to the finding of the Court below that the respondent/wife is a highly educated and wealthy lady and she can sufficiently earn for her livelihood, therefore, she should not be granted any maintenance from the paltry income of the applicant. He further submits that the brother and other family members of the respondent are also financially sound people by which also the respondent can sustain herself.

3. However, opposing the revision petition counsel for the respondent/wife submits that the applicant in his written statement has categorically stated that he is not ready to keep his wife with him and that he has already moved a divorce petition which is pending. This itself was a sufficient indication which has also been accepted by the Court below to be a reason for the respondent to leave the matrimonial house and stay separately. He submits that with the said averment, there is no reason why the applicant being the husband should not maintain his wife as long as the marriage between the two subsists. He further submits that there was a pleading by the respondent that the applicant was working as a medical representative and his monthly income was Rs.25,000/- per month. To which though there is a denial on the part of the applicant stating that he has lost the employment of medical representative yet he has not produced any evidence as to what is his present employment, where he is working and what is his salary. Counsel for the respondent submits that the applicant has made a submission that he is drawing salary of Rs.4,000/- per month but there is no evidence brought on record in this regard by the applicant. Therefore, prays for dismissal of the present revision.

4. The Court below taking into consideration these facts brought before it reached to the conclusion that there is sufficient material available on record to establish the fact that there were compelling reasons for the

respondent/wife to leave the matrimonial house and stay separately and under the said circumstances the wife is entitled for maintenance. Moreover, looking to the fact that the applicant has not been able to produce any evidence regarding his actual monthly income, the Court below awarded an amount of Rs.2,000/- per month as maintenance to the respondent.

5. Considering the total facts and circumstances of the case, this Court is of the opinion that the Court below has not committed any error on law or on facts while passing the impugned order. Further considering today's cost of living even in order to maintain a minimum decent living standard Rs.2,000 would not be sufficient and hence, it cannot be said that the amount of maintenance awarded by the Court below is either exorbitant or on the higher side.

6. Accordingly, the instant criminal revision being devoid of merit deserves to be and is dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**