

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 1142 OF 2016

1. Bilasini Patra, aged about 36 years, W/o Chintamani Patra.
 2. Khirodini, aged about 6 years, S/o Chintamani Patra, minor represented through mother Smt. Bilasini W/o Chintamani Patra.
- Both are R/o Village Jeeradabri, Police Station & Tahsil- Basna, District Mahasamund (C.G.)

... Applicants

Versus

Chintamani Patra, aged about 38 years, S/o Kunwarmani Patra, Caste-Kolta, R/o Bamhadih, Post Salhetarai, Police Station & Tahsil Basna, District Mahasamund (C.G.)

... Non-applicant

For Applicants : Mr. L.C. Dash, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/12/2016

1. The present revision under Section 19(4) of the Family Courts Act read with Section 397/401 of CrPC, has been preferred by the Applicants assailing the order dated 4.11.2016 passed by the learned Family Judge, Family Court, Mahasamund in Misc. Criminal Case No. 152 of 2015.
2. By way of the said impugned order, the Court below in a proceeding under Section 125 of CrPC has partly allowed the application for grant of maintenance, to the extent that the Court has refused to grant maintenance to Applicant No.1 (wife of Non-applicant Chintamani Patra), and has allowed the application for maintenance in favour of Applicant No.2 (minor child of Non-applicant and Applicant No.1 herein) granting an amount of Rs.2000/- per month.
3. Assailing the impugned order, learned Counsel for the Applicants submits that the finding of the Court below to the extent of refusal of grant of maintenance to Applicant No.1 is bad in law as the Court below has not

properly appreciated the evidences which have come on record. That the Court below ought to have appreciated the fact that Non-applicant has not been able to prove the fact that Applicant No.1 had left home for no fault of hers. On the contrary, according to the Counsel for the Applicants, Applicant No.1 had in fact proved before the Court below the fact that there was bonafide compelling circumstances which made her to leave the matrimonial home, and therefore she was also entitled for maintenance.

4. However, from perusal of record it reflects that it is a case where the Non-applicant is said to have found the Applicant No.1 having an illicit relationship with one Sant Kumar and when he caught the two red handed having illicit relationship, he immediately phoned the family members of Applicant No.1 who had thereafter reached her matrimonial home and had taken her back along with them. The statement of the Non-applicant further stands corroborated from the witnesses who have been examined, including NAW-2 Ishwar Patel, who has also accepted the fact that on the allegation of infidelity, a village meeting was convened and in the meeting Applicant No.1 refused to participate. The statement of NAW-2 Ishwar Patel further stands corroborated from the statement of NAW-3 Sadanand Sahu. Further, from the perusal of the record it also reveals that the AW-2 Rudraprakash, who is brother of Applicant No.1, also has accepted the fact that he was called upon by the Non-applicant informing his sister's infidelity and thereafter they had come to her matrimonial home and had taken her back. All these evidences which have come on record clearly suggest that the Court below has rightly reached to the conclusion that Applicant No.1 would not have been entitled for maintenance. In the given factual matrix of the case, this Court does not find any illegality or infirmity on the part of the Court below in passing the impugned order.

5. The Criminal Revision thus deserves to be and is accordingly dismissed. So far as the enhancement of maintenance in favour of Applicant No.2 is concerned, the Applicants may move the Court below by filing appropriate application in this regard.

Sd/-
(P. Sam Koshy)
Judge

/sharad/