

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.144 of 2016**

Pankaj Shukla, S/o Shri Ram Asre Shukla, aged about 26 years, R/o Adarsh Nagar, Village Dondy, PS Dondy, Distt. Baloda Bazar (CG).

---- Applicant

Versus

Smt. Ruchita Shukla, W/o Shri Pankaj Shukla, Aged 22 years R/o Bhatha Gaon, near Ram Mandir Awadhpuri, PS Purani Basti, Distt. Raipur (CG).

---- Respondent

For applicant
For Respondent

Shri Ajay Mishra, Advocate.
Shri BK Chakraborty, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

28/11/2016

1. The present petition has been preferred against the order dated 14.01.2016 passed by the 1st Additional Principal Judge, Family Court, Raipur, in Criminal MJC No.114/2014. Vide the said impugned order, the court below has granted interim maintenance of Rs.3000/- per month to the respondent-wife.
2. Counsel for the applicant submits that the impugned order is bad in law to the extent that it is beyond the paying capacity of the applicant and that he does not have sufficient source of income to honour the order of interim maintenance of Rs.3000/- per month as awarded by the court below. He further submits that the present applicant in his present position may at best be able to pay interim maintenance of Rs.2000/- only and therefore, the impugned order be modified to the said extent.

3. Learned counsel appearing for the respondent submits that though the impugned order was passed on 14.01.2016 but till date the applicant has not given a single penny to the respondent-wife for her maintenance and sustenance. He further submits that the applicant has shown no bonafide in honouring the order dated 14.01.2016 and in between the respondent-wife also had to incur substantial expenses towards her treatment on account of an accident that she met with and where she got her leg fractured and had to be operated upon. He also submits that Wife is facing acute financial crisis to maintain herself and meeting the expenses both for her sustenance as well as to meet the medical expenses required and thus prayed for rejection of the revision petition.
4. After hearing the counsel for the parties and perusal of records what clearly reflect is the fact that prima faice the court below found there to be a strong case for grant of interim maintenance. Once the order of interim maintenance was passed, the applicant ought to have shown some bonafide to honour the order inasmuch as the applicant should have released the money whatever was his paying capacity. Not making any payment is rather sitting tight over the order and also amounts to dishonoring of the court's order. The applicant was supposed to honour the order of interim maintenance or at least to move an appropriate application for modification of the awarded amount before the court below instead decided to challenge the interim maintenance order before this court by way of this present revision.
5. Thus, taking into consideration the total facts and circumstances of the case; appreciating the fiscal condition of the respondent-wife and also

keeping in mind the fact that the applicant is willing to pay Rs.2000/- per month as interim maintenance as of now, in the opinion of this court for the present moment, the impugned order does not warrant any interference. The court below is directed to proceed further with the case and to decide the matter on its own merits. It is also expected that the court below shall consider the source of income of the applicant-Husband while deciding the final quantum payable to the respondent-wife.

6. Meanwhile, it is expected that the applicant shall make all endeavors to comply with the order of interim maintenance granted by the court below.
7. Registry is directed to send back the records of the case forthwith so that the matter can be decided expeditiously.

Sd/-
(P. Sam Koshy)
Judge