

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 269 of 2016**

- Sahadev Verma S/o Late Ful Singh Aged About 36 Years R/o Near Khursipar Police Station, Naya Khursipar, Bhilai, P.S. - Khursipar District - Durg Chhattisgarh, Civil & Revenue District - Durg Chhattisgarh

---- Applicant**Versus**

- Tanmay Verma S/o Sahadev Verma Aged About 3 Years Minor Through Natural Guardian & Mother Smt. Laxmi Bai Verma, W/o Sahadev Verma R/o Village - Hiretara, Post - Pendraavan, P.S. & Tahsil - Dhamda District - Durg Chhattisgarh

---- Respondent

For Applicant	:	Mr. Rishikant Mahobia, Advocate
For Respondent	:	Mr. Raghvendra Pradhan, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****16/09/2016**

1. The present Criminal Revision has been preferred by the Applicant assailing the order dated 16.12.2015 passed by the 1st Additional Principal Judge, Family Court, Durg (C.G.) in Misc. Criminal Case No. 360/2012.
2. Vide the impugned order the Court below has partly allowed the claim application under Section 125 CrPC initiated by the mother of the Respondent, Smt. Laxmi Bai. The Court below while partly allowing the claim application has rejected the claim on behalf of Smt. Laxmi Bai on the ground that there is no valid marriage

between her and the present Applicant. However, the Court below granted maintenance amount of Rs. 2500/- per month to the Respondent, the child born from the relationship between the present Applicant and Smt. Laxmi Bai.

3. Learned Counsel for the Applicant submits that he intends to assail the impugned order on the ground that the paternity of Respondent itself is doubtful. Secondly, learned Counsel for the Applicant submits that the Court below has failed to appreciate the fact that the Applicant did not have long standing relationship with the mother of the Respondent and therefore he denies the Respondent to be his son. In addition, learned Counsel for the Applicant also submits that there is no proof whatsoever brought by the Respondent-claimants before the Court below to establish the fact that the Respondent was born from the relationship which the Applicant had with Smt. Laxmi Bai.
4. Mr. Raghvendra Pradhan appearing for the Respondent opposes the Petition on the ground that there is admission on part of the Applicant of having stayed with Smt. Laxmi Bai for a brief period, that itself is sufficient to draw an inference that there was cohabitation between the two and the Respondent was born from the said relationship. He further submits if the Applicant has doubted the paternity of the Respondent- Tanmay Verma, there is no application moved on behalf of the present Applicant to get the DNA test conducted by the Applicant so as to establish the question of paternity of the Respondent.

5. Considering the total facts and circumstances of the case also on perusal of the impugned order what clearly reflects from the pleading of the Applicant itself is that there is an admission on part of the Applicant of having a brief relationship with the mother of the Respondent – Smt. Laxmi Bai, which establishes cohabitation between the two. Therefore, the Court below was right in drawing an inference in favour of the Respondent. Secondly the fact that the Applicant has not made any attempt to disapprove the paternity of the Respondent by moving proper application for holding a DNA test or any other related test also, is a strong ground for drawing adverse inference against the Applicant.
6. Thus, in the opinion of this Court there is no illegality or infirmity committed on part of the Court below while partly allowing the application for grant of maintenance so far as the Respondent is concerned.
7. The Revision Petition being devoid of merits, the same deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE