

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 487 of 2016**

Shivpujan Garg S/o Rajkishore Garg Aged About 37 Years
Constable 174, Chhattisgarh State Arms Force, 7th Batallion, Bhilai,
R/o Near Shankar Nagar Bhikshu Dharmath Durg, Tahsil And
District Durg Chhattisgarh.

---- Petitioner

Versus

1. Om Singh S/o Shivpujan Garg, Aged About 4 Years (Minor),
2. Ku. Kavya Garg D/o Shivpujan Garg Aged About 01 months (Minor)

Both are minor through Legal Guardian Mother Smt. Soni R/o.
Village Khamhariya Bhatha, Ward No. 01, Bhilai, District Durg
Chhattisgarh.

---- Respondents

For petitioner– Shri Tarun Dansena, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order****27/04/2016**

1. Challenge in this petition is to the order dated 12/01/2016 passed by the First Additional Principal Judge, Family Court, Durg. An application was filed by one Smt. Soni that the petitioner used to visit their house. During such visit she developed a love relation and in the year 2009 the petitioner/husband to perform marriage took the wife/applicant to a mandir and accepted her to be the wife and thereafter continued the matrimonial relation. Out of such relation on 4/06/2010 child namely Om Singh was born and another girl namely Kavya was born. It was stated that applicants No.2 and 3 namely Om Singh and Kavya respondents No.1 and 2 herein are son and daughter of the petitioner. Further it was stated that non-applicant/petitioner was working in 7th Battalion and used to stay at Jagargunda, District Sukma (Bastar) and seldom used to visit his house and after visiting for some time he used to go back. Consequently, wife when enquired about the whereabouts of the non-applicant/petitioner it

was revealed that he was married person and therefore a report was made to the department by the wife and after such report the non-applicant/petitioner stopped visiting the house of the wife. Therefore, maintenance was prayed for.

2. Husband/non-applicant refuted the application and stated that he was never in contact with the said wife Smt. Soni and respondents herein Om Singh and Kavya were not his son and daughter.

3. Learned counsel for the petitioner submits that order for grant of Rs.2,500/- to two minor boy and girl is completely perverse and it has not been proved by the wife that they are legitimate children of the non-applicant/husband. Therefore, he submits that under the facts of this case presumption cannot be drawn that respondents No.1 and 2 Om Singh and Kavya are son and daughter of the petitioner. As such learned counsel submits that order is completely perverse.

4. I have perused the order. Perusal of the order records that on 25/02/2012 the wife had made a complaint to the department of the petitioner that the petitioner on the pretext of marriage has developed relation and subsequently different reports were made on 1/10/2013, 23/06/2012 and 22/01/2015. In response to it police department replied it that wife can lodge FIR against the petitioner. The court has held that when the wife was making complaint from 2013 to 2015 against the non-applicant/husband petitioner herein and if such report was false, then petitioner who is in police department could have taken action and sitting over such silently would lead to prima facie form an opinion the petitioner is biological father of respondents No.1 and 2. Birth certificate of Om Singh dated 4/06/2010 records name of father as Shivpujan Garg the petitioner. Respondent No.1 Om Singh is aged about 4 years and respondent No. Ku. Kavya Garg has been shown to be of one month. Considering the fact that the petitioner working in police department an amount of Rs.2,500/- each to the minor son and daughter has been ordered for by way of interim maintenance.

Perusal of the record and the order would show that no illegality has been committed. Prima facie the circumstances lead to show that the petitioner is the biological father of Om Singh and Kavya who are arrayed as respondents in this petition. Still such presumption can be rebutted during the course of evidence. At this stage respondents who are minors award of Rs.2,500/- each that cannot be said to be exorbitant or illegal. In the result, I do not find any illegality in the order dated 12/01/2016 for interim maintenance. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE

