

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 468 of 2016

Pravin Kumar Pandey S/o Shri Shambhunath Pandey Aged About 32 Years By Caste Bramhin, Permanent Address Village Terrukha, Navadih, Present Address Village Gwala Basti, Gayatri Nagar, Post Indira Nagar, Telco, Police Station Jamshedpur, District East Singhbhum, Jharkhand.

---- Petitioner

Versus

1. Smt. Rina Pandey W/o Shri Pravin Kumar Pandey Aged About 28 Years By Caste Bramhin, R/o Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh.
2. Minor Babu Pandey S/o Shri Pravin Kumar Pandey Aged About 4 Years (Wrongly Mentioned As 40 Years) Through Legal Representative Mother Rina Pandey R/o Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Nitesh Shrivastava, Advocate.
For Respondents	:	Shri Ritesh Nayak, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24/10/2016

1. The present revision petition has been preferred under Section 19(4) of the Family Courts Act assailing the order dated 11.03.2016 passed by the Family Court, Katghora, in MJC No.67 of 2011. Vide the said order, the court below in a proceeding under Section 125 CrPC has disallowed the claim for maintenance of the respondent No.1, but has allowed the claim for maintenance to respondent No.2-daughter of the present petitioner and the respondent No.1 to the extent of payment of Rs. 5000/- per month.
2. Assailing the said order, learned counsel appearing for the petitioner submits that the amount of maintenance awarded by the court below to the respondent No.2 is very exorbitant and is beyond the paying capacity

of the petitioner. He further submits that taking into consideration the salary of the petitioner as Rs.18000/- of which if an amount of Rs. 5000/- is being paid to the respondent No.2, it would be very difficult to meet out the other expenses that he would face. He further submits that the court below has initially granted interim maintenance to the tune of Rs. 2200/- per month to the respondent No.2 and which was regularly being paid by him, and therefore, the court below should have finally fixed the said interim maintenance amount of Rs. 2200/- per month as final maintenance amount. He further submits that an amount of Rs.18000/- which the petitioner receives, is his gross salary which has other deductions also and the net salary that he receives is much less. It was also contended that there are other family members of the petitioner who are dependent upon him and their responsibilities are also upon the petitioner. Thus, for all these reasons, the amount awarded by the court below would make it beyond the paying capacity of the petitioner and he would find it difficult to maintain himself from the remaining amount if the said order is honoured. Therefore, the order impugned deserves to be interfered with and quashed.

3. Counsel for the respondents, however, opposing the petition submits that it is a case where the respondent No.1- wife had brought the salary slip of the petitioner which categorically shows his salary to be Rs.18,740/- per month. The court below taking into consideration the evidence which have come on record had itself denied the maintenance amount to the respondent No.1-wife and has granted maintenance only to the respondent No.2-child. It is next submitted that at the time of filing of claim application, the age of the respondent No.2 was four years and by efflux

of time, she has grown up and expenses for her needs also has increased inasmuch as now she is school going child and her expenses towards education and other heads have also increased substantially, and therefore, the order does not warrant any interference. Thus, prayed for rejection of the revision.

4. Having considered the rival contentions put forth on either side, taking into consideration the admitted facts in the present case being the existence of marriage between the petitioner and the respondent No.1; the undisputed fact of the respondent No.2 to be the child born out of relations between the petitioner and the respondent No.1; the salary part of the petitioner being Rs.18,740/- per month is also not denied by him, in the opinion of this court, in due course of time, the salary of the petitioner must have increased and by now he must be getting at least Rs. 20,000/- per month of which if an amount of Rs.5000/- has been awarded to the respondent No.2-child which would roughly be $\frac{1}{4}$ of the salary of the petitioner, the said amount of Rs. 5000/- cannot be said to be exorbitant or on the higher side in any manner and the order impugned does not call for any interference.
5. Accordingly, the revision being devoid of merit is liable to be and is hereby dismissed. Interim order earlier granted also gets merged with the final order.

Sd/-
(P. Sam Koshy)
JUDGE