

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.753 of 2016**

Naresh Prasad Rahi, S/o Rampyare, aged about 45 years, R/o Village Surra, Tahsil and District Balrampur (CG).

----- **Petitioner****Versus**

Rajkumari W/o Naresh Prasad Rahi, aged about 40 years, present address R/o Village Kenwra Charpara, PS & Tehsil Pratappur, District Surajpur (CG).

---- **Respondent**

For Petitioner	:	Shri DN Prajapati, Advocate.
For respondent	:	Shri Rahul Mishra, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03/10/2016**

1. The present petition has been preferred challenging the order dated 28.05.2016 passed by the Additional Sessions Judge, Pratappur, District Surajpur in Criminal Revision Case No.3/2016.
2. Learned counsel appearing for the petitioner submits that as of now he may not press upon the merits of the case at all. All that the petitioner wants an interference with the impugned order is to the extent that the period of the effect of the impugned order of the JMFC, Pratappur may be reduced.
3. According to counsel for the petitioner, an application under Section 125 CrPC filed by the respondent for maintenance has been allowed w.e.f. 16.11.2005 i.e. from the date of institution of the application

under Section 125 CrPC. It was submitted by the petitioner that the financial condition of the petitioner is very poor and that he too himself is a daily wage worker and therefore it would be difficult for him to pay the arrears of maintenance amount awarded by the JMFC, Pratappur w.e.f. 16.11.2005. Thus, prayed that the effect and operation of the order of the JMFC may be made effective from the date of passing of order i.e. 09.03.2016.

4. Learned counsel appearing for the respondent, however, opposes the prayer made by the petitioner and submits that the respondent-wife in the instant case is living separately since 2004 onwards and since then she is facing great financial hardship in making both ends meet and in sustaining herself, and therefore, prayed for payment of maintenance amount from the date of application under Section 125 CrPC i.e. 16.11.2005 onwards.
5. During the course of arguments, counsel for the petitioner as well as respondent both agrees that the arrears of amount payable to the respondent-wife may be reduced so that neither of the parties would be affected, inasmuch as, the petitioner submits that instead of 16.11.2005 from which date the court below has ordered for payment of maintenance, it may be made effective from the year, 2012, to which counsel for the respondent submits that it may be reduced to a maximum period of five years and not more than that.
6. Considering the facts and circumstances of the case particularly taking into consideration the financial condition of the petitioner-husband as well as the wife, this court is of the opinion that the proposal offered by

the counsel for the respondent-wife seems to be fair and reasonable. Accordingly, it is ordered that the effect of the order of JMFC in Misc. Criminal Case No.224/2011 granting maintenance amount to the respondent-wife w.e.f. 16.11.2005 is now ordered to be made effective w.e.f. 16.11.2010. It is further directed that the petitioner-husband shall make all endeavors to ensure that the arrears of maintenance amount payable to the respondent-wife shall be paid to her within a maximum period of six months from today.

7. It is also directed that so far as the payment of current maintenance amount passed by the court below is concerned, the petitioner shall be liable to pay the monthly maintenance amount forthwith regularly without any default or delay on his part.
8. With the aforesaid modification in the order of JMFC, Pratappur, dated 09.03.2016 passed in Misc. Criminal Case No. 224/2011, the present petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge