

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 846 of 2016

1. Yogesh Chandrakar S/o Ashok Chandrakar, aged about 35 years, R/o - Village - Umrada, Post Office & Police Station - Kurud, Tahsil & District – Dhamtari, Chhattisgarh
2. Smt. Triveni Bai Chandrakar W/o Ashok Chandrakar, aged about 55 years, R/o - Village - Umrada, Post Office & Police Station - Kurud, Tahsil & District – Dhamtari, Chhattisgarh
3. Bhushanlal Chandrakar S/o Omkar Chandrakar, aged about 59 years, R/o - Pension Bada, Raipur, Post Office - Raipur, Police Station - Civil Lines, Raipur, District – Raipur, Chhattisgarh

---- Applicant

Versus

Smt. Goshrani @ Gunjan Chandrakar W/o Yogesh Chandrakar, aged about 25 years, through - Shankarlala Chandrakar, R/o - Village - Bhilai, Post - Gabdi, Police Station - Arjunda, Tahsil - Gunderdehi, District – Balod, Chhattisgarh, Present R/o - Rajendra Prasad Chowk, Kohka, Bhilai, District – Durg, Chhattisgarh

---- Respondent

For Applicants	:	Shri Shivendu Pandya, Advocate.
For Respondent	:	Shri Uttam Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2016

The present revision petition has been preferred assailing the order dated 28.04.2016 passed by the Additional Sessions Judge, Durg in Criminal Appeal No. 0000054/2016 whereby the learned ASJ has rejected the Criminal Appeal preferred by the applicant no.1-husband against the order of

interim maintenance in a proceeding under Section DV Act which is pending before the JMFC, Durg.

2. The sole contention of the counsel for the applicant against the impugned interim maintenance order is that the Family Court, Durg has already in a different proceeding under Section 125 CrPC granted Rs.5,000/- per month as maintenance to the respondent-wife. He further submits that in another proceeding under Section 24 of Hindu Marriage Act the Family Court, Dhamtari has also granted Rs.3,000/- towards maintenance to the respondent. Thus, according to the counsel for the applicants, the granting of impugned interim maintenance amount of Rs.6,000/- per month is further on the higher side and beyond the paying capacity of the applicant-husband. Thus, prayed for setting aside of the orders dated 28.04.2016 and 04.03.2016.

3. Counsel for the respondent opposing the revision petition submits that it is a case where though the order has been passed in favour of the respondent-wife under Section 125 CrPC for maintenance and also under Section 24 of the Hindu Marriage Act yet till date the applicant-husband has not paid any amount awarded in the two proceedings as referred to in the preceding paragraph. According to the respondent, in any case the Court below has passed an order while granting interim maintenance and in case if the respondent-wife is receiving any other maintenance from any other Court, the said amount shall be adjusted with the amount so awarded. It is further contended by the counsel for the respondent that it is only an interim arrangement which has been ordered by the Court below and the matter yet to be adjudicated on its merit and therefore, no interference is required with the impugned order.

4. Having considered the rival contentions put forth by the counsel appearing on either side and also taking note of the fact that the applicant-

husband till date has not paid any amount towards maintenance to the respondent-wife coupled with the fact that the impugned orders of the two Courts below are otherwise specific in respect of the amount of interim maintenance subject to the adjustment against the amount already awarded in any other proceeding, this Court does not find any strong case made out for interfering with the impugned order.

5. Accordingly, the present criminal revision being devoid of merit stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE