

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 813 of 2016

Vishnu Khande aged about 25 years, S/o Goverdhan Khande, R/o village Devri (Sipat) PS Sipat, Tahsil Masturi, District Bilaspur (CG)

---- Applicant

Versus

1. Suman Khande W/o Vishnu Khande, aged about 20 years.
2. Ku. Varsha Khande, aged about 02 month, D/o Vishnu Khande, through mother Smt. Suman Khande W/o Vishnu Khande
Both R/o C/o mother Mehatarin Bai W/o Late Ramayan, village Nargoda, PS Sipat, Tahsil Masturi, district Bilaspur (CG)

---- Respondents

For Applicant : Shri Manoj Ku. Jaiswal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/11/2016

The present revision petition has been preferred challenging the order dated 28.06.2016 passed by the Family Court, Bilaspur in Misc. Criminal Case No. 586 of 2015 whereby the Family Court in a proceeding under Section 125 CrPC has entertained the application for grant of interim maintenance and ordered for payment of Rs.1,000/- per month as maintenance to respondent no.1 and Rs.500/- to respondent no.2.

2. Counsel for the petitioner submits that the order of the Court below is bad in law for the reason that it has not given any plausible reason for allowing the same and has passed the order in a mechanical manner without appreciation of the contents raised in the pleadings filed by either side. He submits that the Court below prima facie ought to have reached to the conclusion that the respondent-wife had left the

matrimonial home on her own without any cause and therefore it is to be presumed that there was no justified reason for her to leave the matrimonial home. Hence, prayed for setting aside of the impugned order.

3. Having considered the contention of the counsel for the applicant and on perusal of the record what is clearly reflected is the undisputed fact of marriage and the status of respondent no.1 being the legally wedded wife and respondent no.2 being the daughter of the applicant. It is also not in dispute that the respondent-wife and the daughter are staying separately for quite sometime. Whether the claim application is genuine & *bona fide* or malicious is a matter of fact which can only be adjudicated upon after the evidences are recorded on either side. As of now, it is only an interim application which has been decided by the Court below and the case on its merit is yet to be appreciated by the Court below. Further, the total amount of interim maintenance granted to the respondent-wife and the daughter is Rs.1,500/- which under no circumstances can be termed to be exorbitant or beyond the paying capacity of the applicant.

4. For the aforesaid reasons, this Court is of the opinion that no strong case is made out for interfering with the impugned order. Accordingly, the present criminal revision being devoid of merit stands dismissed.

5. However, taking into consideration the fact that the 125 CrPC proceedings are to be decided summarily, it is expected that the Court below shall decide the matter as expeditiously as possible.

Sd/-

(P. Sam Koshy)
JUDGE