

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1195 of 2016**

- Yasin Meman S/o Iqbal Meman, Aged About 34 Years R/o Village Rashela, Tahsil Chhura, Post Office & Police Station Chhura, District Gariyaband Chhattisgarh (Non Applicant)

---- Applicant**Versus**

1. Smt. Ruksana Meman W/o Yasin Meman, Aged About 27 Years R/o Jungalpara, Nagri, Post Office & Police Station Nagri District Dhamtari Chhattisgarh
2. Ayag Meman, S/o Yasin Meman, Aged About 2 Years R/o Jungalpara, Nagri, Post Office & Police Station Nagri, District Dhamtari Chhattisgarh (Applicants) (Respondent No. 2 Being Minor On Behlaf Of Through His Legal Guardian Mother Smt. Ruksana Meman W/o Yasin Meman Respondent No. 1)

---- Non-applicants

For Applicant

Mr. S. Pandya, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****02.01.2017**

1. The present Revision Petition has been filed assailing the order dated 11.08.2016 passed by the Family Court, Dhamtari in M.J.C. No. 142/2015.
2. Vide the impugned order the Court below has in a proceeding under Section 125 Cr.P.C. allowed the application and ordered for payment of Rs. 3000/- per month to be paid to the Non-applicant No.1 and Rs. 1500/-per month to Non-applicant No.2 totaling Rs. 4500/- per month to be paid by the present Applicant to the Non-applicants.

3. Learned Counsel for the Applicant assailing the impugned judgment submits that it is the case where the Court below has not properly appreciated the evidence which have come on record showing that there was no sufficient and justifiable reasons for the Non-applicant No.1 to leave the matrimonial home and to live separately at her parental home.
4. Learned Counsel for the Applicant submits that so far as the present Applicant is concerned he is ready to keep the Non-applicants with him and that he has also made efforts so as to patch up the difference with the Non-applicant so that she could stay with him. In spite of the repeated efforts it is Non-applicant No.1 who is not cooperating. Therefore, grant of maintenance to the Non-applicants passed by the Court below is not proper, legal or justified.
5. Learned Counsel for the Applicant further submits that so far as the case under Section 498-A IPC leveled against the Applicant and also the case under Domestic Violence Act lodged by the Non-applicant No.1 against the present Applicant are concerned, they are all false cases planted against the present Applicant without any basis. That he had already made a report in this regard to the Police authorities his of likely being implicated in such criminal cases.
6. Learned Counsel for the Applicant further submits that it is a case where the proceedings under Section 498-A IPC as well as the Domestic Violence Act are pending before the Court below and therefore, pending these cases the impugned order should not be given effect to and the same deserves to be set aside.
7. Having heard the Counsel for the Applicant and on perusal of the

record what is reflected is the fact that the Applicant was married to Non-applicant No.1 in the year 2011 and in the year 2013 Non-applicant No.2 was born to the couple. In between, because of cruelty alleged to have been made by the Applicant to Non-applicant No.1 she has already lodged an F.I.R. against the present Applicant and his family members under Section 498-A IPC. Similarly, the complaint under the Domestic Violence Act has also been preferred. The criminal cases in respect of both the cases are pending consideration before the concerned Trial Court.

8. So far as the fact that the 498 IPC complaint has been lodged to falsely implicate or harass the Applicant is concerned, it is yet to be adjudicated upon by the trial Court. Likewise the Domestic Violence Act also whether it has been bonafidely filed or has been filed only to harass the Applicant is also yet to be adjudicated upon. As long as these proceedings are pending consideration where the Applicant is an accused person, it has to be presumed that there was some bonafide reasons for the complainant to lodge these reports against the Applicant and his family members. If this contention is taken into consideration on its face value, these are sufficient reasons for the Non-applicant No.1 to leave her matrimonial home and stay separately. In the given facts and circumstances of the case the Court below can not be said to have committed an error of law or on facts while allowing the application under Section 125 Cr.P.C. neither is there any infirmity in reaching to the said conclusion.
9. For the given facts and circumstances of the case this Court is of the opinion that no strong case for interference with the impugned order

is made out.

10. Thus, the present Revision Petition deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
JUDGE