

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 837 OF 2015

Vinod Joseph Sebestiyan, S/o K.J. Sebestiyan, aged about 39 years, R/o 1/10 New Patliputra Colony, Curch Road, Patna-13 (Bihar)

... Applicant

Versus

Shweta Decruse, aged about 25 years, W/o Vinod Joseph Sebestiyan, through Shri N. Decruse "Usha Cottage", Om Nagar, Jarhabhata, Bilaspur, Tahsil and District Bilaspur (C.G.)

... Non-applicant

For Applicant	:	Mr. Goutam Khetrapal and Mr. Avinash Chand Sahu, Advocates.
For Non-applicant	:	Mr. Vipin Punjabi and Mr. Sunil Verma, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/01/2017

1. The present Criminal Revision has been preferred by the Applicant assailing the order dated 11.3.2014 passed by the Family Court, Bilaspur in Misc. Criminal Case No. 554 of 2011.
2. Vide impugned order dated 11.3.2014, the Court below has allowed the application preferred by the present Non-applicant under Section 125 of CrPC and has ordered the Applicant for payment of Rs.8000/- as monthly maintenance to her.
3. Counsel for the Applicant submits that the amount of Rs.8000/- per month as has been awarded by the Court below is an exorbitant amount and is on the higher side and therefore requires reconsideration. According to the Counsel for the Applicant, there was no sufficient evidence produced before the Court below so far as the source of income of the present Applicant is concerned and without having proper source of income of the Applicant, the Court below could not have ordered for an amount of Rs. 8000/- per month in favour of the Non-applicant. It is also argued by the Counsel for the Applicant

that the amount of Rs.8000/- is on the higher side for the maintenance of a single person, i.e., the Non-applicant, and the same may therefore be reduced.

4. Counsel for the Non-applicant opposing the revision petition submits that it is a case where the Applicant has deliberately and with mala fide intention suppressed his real source of income from the Court below. Counsel for the Non-applicant further submits that he has filed an application for taking certain document on record and in the said application he has specifically mentioned that the Applicant and his family members are operating a school at their residence with more than 500 students. In addition, they are also operating the playground of the said school for marriage and other recreational purposes from which also they are generating sufficient income. He further submits that in addition the Applicant has a business of surgical and x-ray equipments from which also they have sufficient income. According to the Counsel for the Non-applicant, the amount of maintenance has to be commensurate to the status and the position of the husband. He thus submits that the amount of Rs.8000/- awarded by the Court below in favour of the Non-applicant as monthly maintenance is not exorbitant nor can it be said to be excessive.

5. In the instant case, for the foregoing reasons, the status of the Applicant is explicit and therefore, the amount of Rs.8000/- which has been awarded by the Court below cannot be said to be on the higher side or to be excessive. It is also pertinent to mention here that the averments made by the Counsel for the Non-applicant so far as the operating of a school and also of a business of surgical and x-ray equipments, have not been rebutted by the Applicant. Thus, for all the aforesaid reasons, this Court is of the opinion that the Court below has not committed any illegality or infirmity while allowing the application under Section 125 of CrPC filed by the present Non-applicant and the said finding of the Court below is hereby affirmed.

6. It is made clear that the observations made by this Court should not have any influence in the proceeding under Section 127 of CrPC which is pending before the Court below, and which shall be decided purely on the basis of the evidence that would come before the Court below.

7. With the aforesaid observations, the Criminal Revision stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/