

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 621 OF 2016

1. Smt. Om Kumari, W/o Shri Kailash Yadav, aged about 30 years.
 2. Minor Urmila Yadav, D/o Shri Kailash Yadav, aged about 4 years.
 3. Minor Bhumika Yadav, D/o Shri Kailash Yadav, aged about 3 years.
- Applicants No. 2 and 3 are minor through Natural Guardian Mother Smt. Om Kumari. All are R/o Village- Mehendi, Thana & Tahsil Mahasamund, Civil & Revenue District Mahasamund (C.G.)

... Applicants

Versus

Kailash Yadav (Yadav), S/o Shri Brijlal Yadu (Yadav), aged about 35 years, R/o Village- Dhansuli, Thana- Mandirhasoud, Tahsil- Raipur, Civil and Revenue District Raipur (C.G.)

... Non-applicant

For Applicant	:	Mr. Sunil Sahu, Advocate.
For Non-applicant	:	Mr. Gokulanand Meher, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/02/2017

1. The present Criminal Revision under Section 19(4) of the Family Courts Act, 1984, has been preferred by the Applicants against the order dated 21.3.2016 passed by the Judge, Family Court, Mahasamund, in Misc. Criminal Case No. 139 of 2015.
2. Vide impugned order dated 21.3.2016, the Court below in a proceeding under Section 125 of CrPC has rejected the claim of Applicant No.1 herein for grant of maintenance and has allowed the claim of Applicants No. 2 and 3 herein to the extent of they being entitled for the maintenance of Rs.2000/- each per month from the Non-applicant herein.
3. Learned Counsel for the Applicants assailing the impugned order submits that the Court below has not properly appreciated the evidence which have come on record particularly, that of the Applicant No.1, while rejecting her claim for grant of maintenance. He further submits that the Court below has also not taken care of the fact that the Applicant No.1 has specifically

made a statement before the Court below of the ill-treatment and cruelty which the Non-applicant had made upon her and on account of which she was forced to leave her matrimonial home. It was contended by the Counsel for the Applicants that there is a conciliation proceeding undertaken by the Mahila Police, Mahasamund in respect of the differences between the Applicant No.1 and the Non-applicant, which establishes the fact of the Applicant No.1 being subjected to cruelty by the Non-applicant. It was also the contention of the Counsel for the Applicants that the stand of the Applicant No.1 all along was consistent in the complaint she had made initially with that of the statement which was made before the Court below and therefore the consistent stand ought to have been taken into consideration by the Court below for allowing her claim also. Thus, the impugned order deserves to be interfered with to that extent.

4. Learned Counsel for the Non-applicant however submits that the allegations and contentions put forth by the Counsel for the Applicants, all have been considered and discussed by the Court below in its order. According to him, the Court below has specifically considered the evidence which have come on record and has reached to the conclusion that there was no strong and justified reason for the Applicant No.1 to leave the matrimonial home. It was also the contention of the Counsel for the Non-applicant that the evidence which have come on record also show that there were major contradictions and omissions in the complaint of the Applicant No.1 when compared to her Court statement and many of the facts were therefore not trustworthy enough to be accepted as cogent evidence and, therefore, the Court below has not accepted the same while disallowing her claim. He also contended that so far as the claim of other Applicants are concerned, the Court below has in fact considered their claim and allowed the same.

5. Having considered the rival contentions put forth on either side and also while considering the impugned order, what clearly reflects from the finding of the Court below is the fact that there were material contradictions in the complaint which was made by the Applicant No.1 when compared to the statement or the deposition that she had made in the course of evidence. The fact that there have been major contradictions in her evidence itself makes the contention of Applicant No.1 to be not trustworthy enough. It is also the finding of the Court below that there has been evidence which has come on record that there was a village meeting held in respect of the dispute between the parties and in the said village meeting also the Applicant No.1 is said to have initially refused to go to stay along with the Non-applicant. However, later on, she is said to have put a condition that she shall not stay with the Non-applicant either at Dhansuli or at Mandirhasoud. This itself clearly reflects the adamant approach of the Applicant No.1 in not intending to stay with the Non-applicant.

6. In view of the aforesaid facts and circumstances of the case, in the opinion of this Court, the Court below has not committed any error of law or infirmity in the impugned order while reaching to the conclusion that the Applicant No.1 was not entitled for maintenance amount and also while allowing the maintenance of Rs.2000/- each to the Applicants No. 2 and 3.

7. The present Criminal Revision thus being devoid of merits, the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge