

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 1196 OF 2016

Shri Balkrishna, S/o Late Madhav Rao, aged about 45 years, R/o. Q. No. 3/D, Road No.5, Sect-11, behind of Dena Bank, Khursipar Jone-2, Bhilai, Tahsil and District Durg (C.G.), Official Address -Personal No. 899555/2, Token No. 26760, Division- Red 1, Post Plant Attendant, Bhilai Steel Plant, Bhilai, Tahsil and District Durg (C.G.)

... Applicant

Versus

Smt. Bhagyalaxmi, W/o Balkrishna, age 38 years, R/o Road No. W.M.R., Q. No. 5/A, Sect-4, Bhilai Nagar, Thana- Bhilai Bhatti, Tahsil & District Durg (C.G.)

... Non-applicant

For Applicant : Mr. Sanjay Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/01/2017

1. The present Criminal Revision has been preferred by the Applicant assailing the order dated 28.9.2016 passed by the Illrd Additional Principal Judge, Family Court, Durg, in Misc. Criminal Case No. 1055 of 2014, whereby in a proceeding under Section 125 of CrPC the Court below has ordered the present Applicant to pay an amount of Rs.15,000/- as monthly maintenance to the present Non-applicant.

2. Learned Counsel for the Applicant assails the said order on the ground that the amount of maintenance awarded by the Court below is on the higher side, exorbitant and is beyond the paying capacity of the Applicant. He submits that it is a case where there is no justified reason for the Non-applicant to leave the matrimonial home and live separately. He further submits that the Applicant has also made repeated efforts calling the Non-applicant to stay along with him, in addition he has also initiated proceeding under Section 9 against the Non-applicant for restitution of conjugal rights.

3. Learned Counsel for the Applicant next submits that from Rs.24,000/- i.e., the net payment that the Applicant has, if an amount of Rs.15,000/- as awarded by the Court below, is honoured, he shall find it difficult to sustain

himself. He further submits that it is a case where the Applicant is still interested in getting the Non-applicant along with him, but it is the Non-applicant who is not coming forward in staying with the Applicant and she is staying separately for no justified reasons.

4. However, from the perusal of the record, the finding of the Court below in respect of the gross salary of the Applicant more than Rs.50,000/- stands established from the salary slip which has been filed by the Applicant along with present revision as Annexure A/4. The said salary slip is of November, 2016 where the gross salary of the Applicant is shown as Rs.53,975/- and the net payment is shown as Rs.24,022/-. The record further shows that during the course of evidence, the present Applicant is said to have admitted the fact that there was a complaint lodged at Police Station Bhilai Bhatti by a lady who claims the Applicant to be her husband. The said complaint was not objected to or opposed by the Applicant, on account of which the Court below has drawn an inference that the Applicant is staying with another lady. It is also pertinent to mention here that the present Non-applicant also in her application under Section 125 of CrPC has levelled allegation against the present Applicant of staying separately along with a different lady. Further, considering the total gross salary of the Applicant, it cannot be said that the amount of maintenance which has been awarded by the Court below in favour of the present Non-applicant is on the higher side or is exorbitant. Thus, for all the aforesaid reasons, this Court is of the opinion that the Court below has not committed any error either on facts or in law while allowing the application under Section 125 of CrPC.

5. For the foregoing reasons, the present Criminal Revision being totally devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge