

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 851 OF 2016

Khorbahra Sahu, S/o Shri Tularam Sahu, aged about 50 years, occupation Service, R/o Q. No. F-358, Prakash Nagar, Mandpur Malibguda, Birsinghpur, Sanjay Gandhi Electric Fire Farmarsh Power Plant, Birsinghpur, Tarbai Superintendent Engineer Unit No.2 Birsinghpur (M.P.)

... Applicant

Versus

1. Smt. Urmila Devi Sahu, W/o Shri Khorbahra Sahu (Father late Dhaniram Sahu), aged about 45 years.
2. Ku. Pragya Sahu, D/o Shri Khorbahra Sahu, aged about 9 years.
3. Ku. Prawastha Sahu, D/o Shri Khorbahra Sahu, aged about 9 years (R-2 to R-3 legal guardian mother Smt. Urmila Devi Sahu, W/o Shri Khorbahra Sahu, R-1)

All R/o Village Mophka, P.S. Sarkanda, Tahsil & District Bilaspur (C.G.)

... Non-applicants

For Applicant	:	Mr. Dheerendra Pandey, Advocate.
For Non-applicants	:	Mr. Dinesh Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2017

1. The present Criminal Revision under Section 19(4) of the Family Courts Act read with Section 397/401 of CrPC, has been filed by the Applicant assailing the order dated 18.7.2016 passed by Family Court, Bilaspur, in Misc. Criminal Case No. 549 of 2014.
2. Vide impugned order dated 18.7.2016, the Court below in a proceeding under Section 125 of CrPC has allowed the application and ordered the present Applicant for payment of Rs.5000/- to Non-applicant No.1 and Rs.3500/- each to Non-applicants No. 2 and 3 as maintenance, totaling to Rs.12,000/- to be paid to the Non-applicants every month.
3. Counsel for the Applicant submits that so far as the grant of maintenance to Non-applicants No. 2 and 3 is concerned, he does not have any dispute in this regard and he is ready to pay the said amount to them. However, he is aggrieved only of the grant of maintenance to Non-applicant

No.1 to the tune of Rs.5000/-. According to the Counsel for the Applicant, the order of the Court below is bad in law, for the reason that the Court below has not appreciated the fact that Non-applicant No.1/wife has left the matrimonial home for no fault of the applicant/husband and that she has left the matrimonial home without any justified reasons. He further submits that it is a case where the family life of the Applicant went on for 23 years before the Non-applicant No.1 had left the matrimonial home. He next submits that the Applicant is still willing to keep the Non-applicant No.1 as his wife and his children, but it is the adamant approach of the Non-applicant No.1 for which she has left the matrimonial home. He further submits that there was no major dispute between the parties and it was only petty issues which were there between the parties, which can never be a ground for the Non-applicant No.1 to leave the matrimonial home and which is not a justified reason for leaving the matrimonial home. Therefore, the Non-applicant No.1 was not entitled for maintenance and the impugned order deserves to be set aside/quashed to that extent.

4. Counsel for the Non-applicants however opposing the criminal revision submits that it is an order which has been passed taking into consideration the overall evidence which have come on record and as such the impugned order does not warrant any interference. He submits that the admission on the part of the Applicant of there being petty disputes itself proves that there were some issues which were there and which made the Non-applicant No.1 to leave the matrimonial home. He further submits that the amount of maintenance of Rs.5000/- which has been granted to the Non-applicant No.1 is a justified amount when compared to the salary which the present Applicant receives. He thus prayed for the rejection of the Criminal Revision.

5. Having considered the rival contentions put forth on either side and on perusal of the record, what clearly reflects is the fact that so far as there being

petty issues and disputes between the parties is concerned, the same is not disputed by the present Applicant. The only reason he says is that those disputes were not serious enough for the Non-applicant No.1 to leave the matrimonial home. However, a perusal of the record would show that the Applicant as such has not taken any legal recourse available to him for bringing the wife and children to stay along with him like initiating application for restitution of conjugal rights etc. It is also reflected from the evidence that there have not been any efforts shown on the part of the Applicant for bringing the Non-applicant No.1 to stay along with him at the village level or at the instance of the elders of the village. So far as the Non-applicant No.1 is concerned, the contention of the Applicant that there were some disputes between the parties itself shows that there have been some issues which compelled the Non-applicant No.1 to leave the matrimonial home along with her children. The present Applicant has not even taken steps for obtaining the guardianship or the custody of the two children born from the relationship between the two.

6. One should not forget that Section 125 of CrPC is a social legislation and it has to be liberally interpreted. Admittedly, when there were some disputes prevailing between the parties and there is an admitted fact on either side that both are living separately, the wife and children would definitely be entitled for the maintenance amount. In the instant case, the Applicant has himself accepted the fact that he does not intend to challenge the granting of maintenance to Non-applicants No. 2 and 3. However, his only grievance is of grant of maintenance to the Non-applicant No.1/wife. For want of any evidence to substantiate the contention of the Applicant of having made any sincere efforts for the restitution of the relationship between the two and also making efforts at the village level for unification between the two, this Court is not inclined to interfere with the impugned order.

7. Since the quantum part has not been questioned, this Court is not indulging into that issue.

8. The Criminal Revision thus being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

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