

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 24 of 2017**

- Imroj Khan S/o Dost Mohammad Khan, Aged About 32 Years R/o Pali Project, Birsinghpur, Pali, Police Station- Birsinghpur Pali, District- Umariya (Madhya Pradesh).

---- Applicant**Versus**

1. Smt. Nafisa Khan W/o Imroj Khan, Aged About 28 Years R/o Village- College Road, Chota Bazaar, Chirmiri, Police Station- Chirmiri, District- Koriya Chhattisgarh.
2. Irhan Khan, S/o Imroj Khan, Aged About 2 Years Applicant No. 1 Is The Natural Guardian Of Applicant No. 2, R/o Village- College Road, Chota Bazaar, Chirmiri, Police Station- Chirmiri, District- Koriya Chhattisgarh.

---- Non-applicants

For Applicant:

Mr. Atanu Ghosh, Advocate

For Non Applicants:

Mr. Anil Gulati, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.02.2017**

1. Heard on I.A. No.1/2017, which is an application for condonation of delay.
2. For the reasons assigned in the said application for condonation of delay and the same found to be satisfactory, I.A No. 1 is allowed. The Delay of 166 days in filing the Revision Petition stands condoned.
3. Also heard on admission.
4. The present Revision Petition has been filed assailing the impugned order dated 07.04.2016 passed by the Family Court, Manendragarh in Miscellaneous Criminal Case No. 142/2013 whereby the Family Court

has allowed the application under Section 125 of the Cr.P.C. and have ordered for payment of Rs. 1500/- per month to each of the Non-applicants.

5. Learned Counsel for the Applicant submits that the grant of maintenance by the Court below is on the higher side and is exorbitant and beyond the paying capacity of the present Applicant. Further the Counsel for the Applicant also submitted that the Non-applicant No.1 in the instant case is already getting an amount of Rs. 2500/- per month in a proceeding drawn under the provisions of Domestic Violence Act. Therefore the Non-applicant wife is not entitled for further maintenance. Therefore, so far as Non-applicant No.1 is concerned the order of the Family Court to that extent is bad in law. He further submits that two maintenance amount together has become exorbitant therefore the same deserves to be interfered with.
6. Learned Counsel for the Non-applicants however opposes the Petition on the ground that the Present Applicant is an owner of a large scale poultry farm and has a strong financial back ground. The Non-applicant wife is entitled for maintenance for maintaining herself for leading a descent standard of life commensurate with the status of the present Applicant. He further submits that even if she is getting an amount of Rs. 2500/- in the proceeding drawn under the Domestic Violence Act, only an amount of Rs. 1500/- has been awarded vide the impugned order, if taken together even then the total amount would come to only Rs. 4000/- which is too meagre an amount to sustain herself. He further prays that the impugned order does not warrant any interference.
7. Having heard the contention put forth on ether side and on perusal of record, true it is that the Non-applicant wife should have sought for maintenance under any one of the option available to her. In the

peculiar facts and circumstances of the case taking into consideration the status of the present Applicant being an owner of a poultry farm adding the maintenance amount under the two provisions of law which is only Rs. 4000/- cannot be said to be exorbitant or an amount which is beyond the paying capacity of the present applicant.

8. The law so far as the maintenance is concerned is by now well settled that the wife herein is entitled for an amount sufficient for maintaining a decent standard of living commensurate with the status of her husband in the society. If the present Applicant is an owner of a poultry farm the Non-applicant wife is also entitled to maintain a decent standard of living projecting herself to be the wife of a Poultry farm owner. If these facts are taken into consideration amount of maintenance awarded by the two courts below even if taken together can not be said to be exorbitant.
9. In view of the same, this Court is of the opinion that no strong case for interference with the impugned order has been made. Accordingly, the present Revision Petition stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE