

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRIMINAL REVISION NO. 67 of 2017**

Ram Singh Thakur son of Shiv Kumar Singh Thakur, aged about 30 years, resident of Tulsipur, Vaktavar Chal, Gali No.8, Rajnandgaon, Distt. Rajnandgaon (CG).

---- Petitioner**VERSUS**

1. Smt. Tikeshwari Thakur wife of Ram Singh Thakur, aged about 25 years.
2. Prince Thakur son of Ram Singh Thakur, aged about 3 ½ years.
3. Lucky Thakur son of Ram Singh Thakur, aged about 2 ½ years.
4. Shraddha daughter of Ram Singh Thakur, aged about 8 months.

No.2 to 4 are minor, represented through mother Tikeshwari Thakur,
All are C/o Bhagwat Singh, Camp-1, Vrindanagar, in front of Vaishali Nagar College, Bhilai, District Durg (CG).

---- Respondents

For Petitioner

Shri B.P. Singh, Advocate.

Hon'ble Shri Justice P.Sam Koshy**Order On Board****17/01/2017**

1. By way of this petition, the petitioner is assailing the order dated 20.11.2015 passed in Misc. Criminal Case No.298/2015. Vide the said order, the court below in a proceeding under Section 125 CrPC has allowed the same and have ordered for maintenance of Rs. 6000/- per month for four persons to be paid to the respondents by the petitioner.
2. Counsel for the petitioner assailing the order submits that the assessment of Rs.6000/- arrived at by the court below is without any basis. He further submits that once when there is a categorical finding

of the court below that the agricultural land which was said to be that of the petitioner was not infact of the petitioner, but was of his father, the court below should not have passed the impugned order granting maintenance to the respondents. There is sufficient evidence to show that there was no proper and justified reasons for the wife to leave the matrimonial home. It is also submitted that the petitioner is an unemployed youth and does not have any source of income to provide for the amount of maintenance which has been awarded by the court below.

3. However, a perusal of the record shows that the petitioner initially has entered appearance before the Family Court and submitted his reply and later on did not contest the case on merits and as such the court below has proceeded ex parte against the petitioner and has passed the ex parte order.
4. Record also shows that the petitioner has not made any efforts to get the ex parte order quashed so that he could contest the case on merits. Further, from the record it is also evident that since there was an ex parte order, after the written statement was filed there is no evidence to rebut the statement of the respondents-claimants neither is there any evidence brought on record by the petitioner with which the findings of the court below could have been tested. In the absence of any such evidence to rebut the statement and evidence of respondents-claimants, this court is constraint to draw an adverse inference against the petitioner for the reason that he had after putting

his appearance before the family court though it fit not to contest the case on merits and left for the family court to decide the matter, which the petitioner is now challenging.

5. Counsel for the petitioner submits that the petitioner has moved an application under Section 9 of the Hindu Marriage Act which is pending consideration before the court below which shows that the petitioner is ready and willing to keep the respondents along with him. However, on a specific query being put to petitioner, he submits that the application under Section 9 of the Hindu Marriage Act was filed in August, 2016 i.e. month's after the application under Section 125 CrPC was filed and that it was filed at the stage when 125 proceedings had already reached its fag end.
6. Thus, in the opinion of this court there is no illegality or infirmity on the part of the court below in passing the order impugned. One should also bear in mind that the maintenance amount of Rs.6000/- has been granted for four persons i.e. wife and three children, which under any circumstances cannot be said to be exorbitant or on higher side in today's cost of living.
7. Accordingly, the revision being devoid of merit is liable to be and is hereby dismissed.

**Sd/-
(P.Sam Koshy)
JUDGE**