

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 75 of 2017**

- Ghanshyam Singh Dewangan S/o Chotelal Dewangan Aged About 30 Years R/o Village Sargaon, Post Sargaon, Tehsil & District Raipur, Chhattisgarh.

---- Applicant**Versus**

1. Nandini Dewangan Aged About 6 Years Minor Through Their Legal Heir Smt. Damyati Dewangan , W/o Ghanshyam Singh Dewangan , Aged About 25 Years, R/o Ayodhya Nagar, Mahasamund, Police Station & Post Mahasamund, Tehsil & District Mahasamund, Chhattisgarh.
2. Jyotsana Dewangan Aged About 4 Years Minor Through Their Legal Heir Smt. Damyanti Dewangan , W/o Ghanshyam Singh Dewangan , Aged About 25 Years, R/o Ayodhya Nagar, Mahasamund, Police Station & Post Mahasamund, Tehsil & District Mahasamund, Chhattisgarh.
3. Smt Damyanti Dewangan W/o Ghanshyam Singh Dewangan Aged About 25 Years R/o Ayodhya Nagar, Mahasamund, Police Station & Post Mahasamund, Tehsil & District Mahasamund, Chhattisgarh.

---- Non-applicants

For Applicant

Mr. Anurag Singh, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****19.01.2017**

1. The present Revision Petition has been preferred assailing the order dated 29.11.2016 passed by the Judge, Family Court, Mahasamund whereby the Court below in a proceeding under Section 125 of the Cr.P.C. has ordered for monthly maintenance Rs. 2000/- payable to the Non-applicants No.1 & 2 each and Rs. 3000/- to Non-applicant No.3 totalling Rs. 7000/- to be paid as monthly maintenance.
2. Learned Counsel for the Applicant assailing the impugned order submits that there was no justified reason for the non-applicant No.3 to leave her

matrimonial home and this aspect has not been properly appreciated by the Court below. It was also assailed by the Counsel for the Applicant that the amount of maintenance which has been awarded is on higher side as he is a constable in the police department and his salary is only around Rs.16000/-per month of which if Rs. 7000/- is to be paid by the Applicant monthly, there would not be sufficient amount left to meet the immediate needs and sustenance for himself and others dependent upon him. It was argued by the Counsel for the Applicant that the Applicant is still willing to keep the Respondent with him.

3. Having considered the submissions put forth by the Counsel for the Applicant and on perusal of the record what reveals is the fact which has come before the Court below is that there has been no efforts made at the behest of the present Applicant for bringing back his wife and children to stay along with him. Also no application for restitution of conjugal rights have been filed by the present Applicant. Neither has he established by leading cogent evidence before the Court below of trying to have conciliation so that they can stay together. On the contrary there is evidence which has been produced by the Non-applicant No.3 which has got support from the statement of her father that she was compelled to leave her matrimonial home and since then she is staying separately with her children in a rented house.
4. Learned Counsel for the Applicant at this juncture submits that since the Non-applicants are residing in a rental house, shows they have sufficient amount to maintain themselves.
5. Having considered the foregoing and taking into consideration the undisputed facts of the Applicant being the husband of Non-applicant No.3 and father of Non-applicant No.1 & 2 it is the bounden duty of him to provide necessary assistance in their maintenance.

6. Now, whether the amount of maintenance is on higher side ? If we look in to the amount given to the Non-applicants it would reveal that Non-applicant No.3 wife has been granted maintenance amount roughly Rs. 100/- a day which is bare minimum amount for one person to sustain himself. So far as the amount ordered to be paid to the Non-applicants No. 1 and 2 are concerned, they are school going children aged about 6 and 4 years they require educational expenses too. Therefore, Rs. 2000/- to each of the Non-applicants No.1 & 2 for the sustenance of young growing children can not be said to be either exorbitant or on higher side, particularly when the applicant earns more than Rs. 16,000/- per month.
7. What is also cannot be brushed aside is the fact that the present Applicant is a police constable and has a regular income and which also would be revised automatically and the Non-applicants have a right to maintain themselves as family members of a police constable.
8. For the foregoing reasons this Court does not find any strong ground made out for interference with the impugned order.
9. Accordingly, the present Revision Petition being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE