

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 146 of 2017**

- Shyam Sahu S/o Late Baldeo Sahu Aged About 38 Years R/o T. J. Road, Near Dattak Mandire, Gangadeen Teli Gali No. 4, Police Station Didwai, Mumbai, Maharashtra, Address- Paret Vilag Bhakti Building, 5th Floor, Gangadeen Teli Room No. 154, Mumbai , Maharashtra.

---- Applicant**Versus**

1. Gouri @ Gayatri Sahu W/o Shyam Sahu Aged About 33 Years R/o Purana Rajendra Nagar, Beside Of Dr. T.K. Rao, Raipur, District Raipur, Chhattisgarh.
2. Rishikesh Sahu S/o Shri Shyam Sahu Aged About 6 Years Minor Through Legal Guardian Mother Gouri @ Gayatri Sahu, R/o Purana Rajendra Nagar, Beside Of Dr. T.K. Rao, Raipur, District Raipur, Chhattisgarh.

---- Non-applicant

For Applicant: Mr. Akhilesh Mishra, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07.02.2017**

1. The present Revision Petition has been preferred assailing the order dated 21.12.2016 passed by the Principle Judge, Family Court Raipur in Criminal M.J.C. NO. 241/2012. Vide the impugned order the Court below in a proceeding under Section 125 of the Cr.P.C. has allowed the same and have ordered for Rs. 3000/- per month to the Non-applicant No.1 and Rs. 1500/- to Non-applicant No.2 (total Rs. 4500/-).
2. Learned Counsel for the Applicant assailing the said order submits that it is the case where the Non-applicant wife has left the matrimonial

home for no justified reason. She has left her matrimonial home of her own voluntarily because she intends to stay with her parents instead of staying with the present Applicant and thus the Court below should not have granted maintenance from the present Applicant.

3. He further submits that the present applicant has made repeated efforts for reconciliation between the parties. It was the adamant approach of the Non-applicant No.1 which has failed the cohabitation between the two persons, therefore Non-applicants are not entitled for maintenance from the Applicant.
4. Having considered the submission made by the Counsel for the Applicant and on perusal of the record what is undisputed is the fact that the undoubtedly Non-applicant No.1 is wife of the present Applicant and Non-applicant No.2 is the son of the present Applicant born from Non-applicant No.1. The relationship between the two as husband and wife is also not in dispute. Likewise, it is not in dispute that the present Applicant is working at Bombay and that he had on earlier occasion filed application for divorce from Non-applicant No.1 which subsequently got dismissed for want of prosecution. It also reflects that the Non-applicant wife in the meantime have also filed complaint case against the present Applicant under the provisions of 498-A of the IPC which is still pending consideration. The custody of the Non-applicant No.2 has also been provided to Non-applicant No.1 at the intervention of the Court at Bombay.
5. Further from the perusal of the record it does not show that there exists any proof so far as the efforts made by the present Applicant for keeping the Non-applicants along with him is concerned. On the

contrary there is evidence particularly the present Applicant having filed the divorce Petition against Non-applicant No.1. In addition the evidence provided by Non-applicant No.1 has been corroborated from the evidence of other witnesses who have been examined. Further the fact that there is also a case under Section 498A of the IPC pending against the Applicant further strengthens the claim of the Non-applicant wife. Thus the findings of the Court below is purely on the basis of the evidence which have come on record and it cannot be said to be in any manner illegal or infirm.

6. So far as the quantum of award is concerned it would clearly reflect that the Court below has awarded only Rs. 100/- a day to Non-applicant No.1 and Rs. 50/- a day to the Non-applicant No.2 that is Rs. 3000/- and Rs. 1500/- per month payable to Non-applicants No.1 and 2 respectively. It cannot be said in any manner exorbitant or on higher side.
7. The Revision Petition thus being devoid of merits stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE