

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 247 of 2017**

- Jagdish Raut S/o Shri Baijanath, Aged About 38 Years Caste- Raut, Occupation- Labour, R/o Village - Kulharbuda, Police Station- Tumala, Tahsil- Farsabahar, District- Jashpur, Chhattisgarh.

---- Applicants**Versus**

1. Smt. Nanmati W/o Shri Jagdish Raut, Aged About 35 Years R/o Kadro, Police Station- Bagbahar, Tahsil- Patthalgaon, District- Jashpur, Chhattisgarh.
2. Shivshankar S/o Shri Jagdish Raut, Aged About 8 Years Minor Through His Mother- Smt. Nanmati W/o Shri Jagdish Raut, Aged About 35 Years, R/o Kadro, Police Station- Bagbahar, Tahsil- Patthalgaon, District- Jashpur, Chhattisgarh.
3. Aarati D/o Shri Jagdish Raut Aged About 6 Years Minor Through Her Mother- Smt. Nanmati W/o Shri Jagdish Raut, Aged About 35 Years, R/o Kadro, Police Station- Bagbahar, Tahsil- Patthalgaon, District- Jashpur, Chhattisgarh.

---- Non-Applicants

For Applicant : Shri Rishi Rahul Soni, Advocate

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

02/03/2017

1. The present Revision Petition has been preferred under Section 19(4) of the Family Court Act assailing the order dated 25.11.2016 passed by the Judge Family Court, Jashpur in Miscellaneous Criminal Case No. 224/2015.
2. By way of the said impugned order, the Court below in a proceeding under Section 125 Cr.P.C. has allowed the same and has ordered for payment of maintenance of Rs.1,000/- per month to Non-Applicant No.1—wife and Rs.500/- per month each to Non-Applicant Nos. 2 & 3 - children i.e. total of Rs. 2,000/- per month.
3. Assailing the said order, learned Counsel for the Applicant submits that the finding of the Court below to the extent that the Non-Applicant No.1 had

justified reasons for leaving the matrimonial home is not correct as there is no strong reason to establish this issue. It is also contended by the learned counsel for the Applicant that the amount of maintenance awarded by the Court below is exorbitant and is on the higher side which is much beyond the paying capacity of the Applicant. He further submits that the evidence adduced by the Non-Applicant No.1 undisputedly shows that the Applicant is working as a labour and that he is earning only amount Rs.100/- a day and as such his total emolument is only about Rs.3,000/- per month and if Rs.2,000/- has to be given to the Non-Applicants, the Applicant would face difficulty to sustain himself. Therefore, in these circumstances the order impugned requires to be interfered with.

4. Considering the submission made before the Court and also on perusal of the impugned award and particularly the statement of the witnesses, who have been examined on behalf of the Applicant, the present Applicant in between had brought another lady for staying along with him in the house and that the dispute in the family arose only after the said lady entered the house of the present Applicant, the submission of their being no justified reasons for leaving the matrimonial home by Non-Applicant No.1 stands falsified and rejected.
5. So far as the quantum of maintenance which is awarded by the Court below is concerned, the Non-Applicant No.1 has been granted only Rs.1,000/- per month. If the said amount is distributed into 30 days of the month, it barely is Rs.30/- per day which is a bare minimum amount with which a person can sustain in today's cost of living. Likewise, the amount of maintenance awarded to the children is only Rs.500/- each which also cannot in any circumstances be said to be exorbitant or on the higher side.
6. It is well settled law that once the relationship of wife and children is undisputed and that there being sufficient material to show that the wife has

just reason to leave the matrimonial home, it is the bounden duty of the husband to provide necessary and sufficient amount of maintenance for the wife and children to sustain. The wife and children are entitled for sufficient amount of maintenance commensurate to the status of the Applicant – husband so that they are able to maintain a decent standard of life. Even if the entire amount of maintenance awarded to the three Non-Applicants is taken into consideration which would be Rs.2,000/- per month, it cannot be said to be exorbitant or on the higher side.

7. In view of the above, no strong case is made out calling for interference with the order impugned. Thus, the petition being devoid of merits deserves to be and is accordingly rejected.
8. No order as to costs.

Sd/-
(P. Sam Koshy)
JUDGE