

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 448 OF 2016

Ramavatar, aged about 35 years, S/o Lochan, Caste- Rathor, R/o Village Putpura, Tahsil and P.S. Janjgir, District Janjgir-Champa (C.G.)

... Applicant

Versus

1. Manjulata, aged about 30 years, W/o Ramavatar, R/o present address Shivni (Naila, P.S. Chowki Naila), Tahsil Janjgir, District Janjgir-Champa (C.G.)
 2. Chandrakant, aged about 11 years, S/o Ramavatar Rathor,
 3. Ku. Roshni, aged about 9 years, D/o Ramavatar Rathor,
- Non-applicants No. 2 and 3 are minor through legal guardian Manjulata Rathor, W/o Ramavatar Rathor, present address Shivni (Naila, P.S. Chowki Naila), Tahsil Janjgir, District Janjgir-Champa (C.G.)

... Non-applicants

For Applicant	:	Mr. Basant Kaiwartya, Advocate.
For Non-applicants	:	Mr. Sampurnak Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/03/2017

1. The present Criminal Revision has been filed by the Applicant assailing the order dated 23.12.2015 passed by the Family Court, Janjgir, District Janjgir-Champa, in Misc. Criminal Case No. 223 of 2014.
2. Vide impugned order dated 23.12.2015, the Court below in a proceeding under Section 125 of CrPC has allowed the application for grant of maintenance so far as Non-applicants No. 2 and 3 are concerned and has rejected the same so far as Non-applicant No.1 is concerned. The amount of maintenance awarded in favour of Non-applicants No.2 and 3 is Rs.1500/- each per month, totaling to Rs. 3000/-.
3. Counsel for the Applicant submits that the sole ground for challenging the order passed by the Court below is the quantum of maintenance awarded. According to him, the present Applicant is a labour and he does not have a paying capacity to honour the amount of maintenance awarded by the Court below. He submits that if the impugned order is honoured then the Applicant

would find it difficult to sustain himself. He thus prayed for interference with the impugned order.

4. Counsel for the Non-applicants however opposes the revision, on the ground that the Non-applicants, the claimants before the Court below, have produced sufficient evidence before the Court below to establish the source of income of the present Applicant and it was only taking into consideration the evidence which have been brought on record by the Non-applicants that the amount of Rs.1500/- each has been quantified by the Court below.

5. Having considered the rival contentions put forth on either side and perusal of the record, this Court does not find any strong case made out by the present Applicant to interfere with the amount of maintenance awarded to Non-applicants No. 2 and 3. A perusal of the record shows that the Non-applicants have produced evidence before the Court below establishing the fact that present Applicant was owner of an Auto Rickshaw, which during the pendency of the claim case before the Court below, he has tried to alienate the same by executing a sale deed in favour of his brother. There is sufficient evidence establishing the source of income of the Applicant by the Non-applicants. In view of the same, this Court does not find any strong case for interference with the impugned order.

6. The present criminal revision thus being devoid of merits the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE