

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.674 of 2016**

Sukhdev Prasad S/o Mitthu Lal Aged About 32 Years Caste :
 Chandranahu, R/o. Village : Kirari, Tahsil & Police Station :
 Malkharauda, Revenue & Civil District : Janjgir - Champa Chhattisgarh

---- **Petitioner**

Versus

1. Smt. Shiv Kumari W/o Sukhdev Prasad Aged About 28 Years Caste :
 Chandranahu,
2. Neelkamal Chandra S/o Sukhdev Chandra Aged About 7 Years Minor
 Guardian Mother Shivkumar Chandra W/o Sukhdev Prasad Chandra,

Both are R/o Village : Khaira, Police Station : Dabhra, Revenue & Civil
 District : Janjgir - Champa Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri D. Kushwaha, Advocate.
For Respondents No.1&2		Shri Basant Dewangan, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

06/02/2017

1. The present revision has been preferred against the order dated
 08.06.2016 passed by the Judge, Family Court (Link Court), Sakti, Distt.
 Janjgir Champa, in Misc. Criminal Case No.93 of 2015, whereby the
 Family Court has allowed the application under Section 125 CrPC filed
 by the respondents and had granted maintenance of Rs.1200/- to non
 applicant No.1 and Rs.800/- to non applicant No.2.
2. The admitted facts of the instant case is that, the marriage between the
 applicant and respondent No.1 took place in the year, 2007.
 Subsequently, as the relationship got strained, the respondent No.1 was
 compelled to leave the matrimonial home along with respondent No.2.

Meanwhile, the respondent No.1 had also filed a complaint under the provisions of Domestic Violence Act, 2005 (for short, the Act, 2005) where there was an order for grant of interim maintenance of Rs.1000/- per month till the finalization of said case under the Act, 2005. Simultaneously, an application under Section 125 CrPC seeking for maintenance was also filed. The court below vide impugned order has ordered for payment of Rs.1200/- to non applicant No.1 and Rs.800/- to non applicant No.2, total amounting to Rs.2000/- per month to be paid by the present applicant to the respondents. It is this order, which is under challenge in the present revision petition.

3. Learned counsel appearing for the applicant submits that the impugned order is bad in law for the reason that the applicant is already paying Rs.1000/- per month to the respondents under the provisions of the Act of 2005. Therefore, she is not entitled to claim separately under 125 CrPC proceeding. It is further submitted that the court below also has not properly appreciated the evidence which have come on record justifying the amount of maintenance which has been awarded and the same is on higher side.
4. However, a perusal of record, particularly the evidence which has come on record and from the findings given by the court below, it reflects that there have been compromise proceeding on more than a couple of occasions, but each time on account of the behaviour of the present applicant, the wife was compelled to leave the matrimonial home. Further, it also reflects that she has also filed a case before the Judicial Magistrate First Class, Dabhra, Distt. Janjgir Champa under the Act, 2005, where ad-interim maintenance of Rs.1000/- has been awarded

and which is being paid. The impugned order of the Family Court reflects that the court below has ordered for adjustment of the amount awarded under the Act, 2005, from the total amount of maintenance being paid under Section 125 CrPC. The trial court has also discussed that in the event if the case under Domestic Violence Act is rejected on merits then, non applicant No.1 would be entitled for Rs.1200/- per month which by itself implies that in case if the amount of Rs.1000/- is still being paid, the same would be deducted from the amount payable to non-applicant No.1.

5. Under the given factual matrix of the case and the evidence which has come on record, this court is of the opinion that no strong case has been made out calling for interference with the impugned order.
6. Thus, the revision being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P.Sam Koshy)
Judge