

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 926 OF 2016

Dinesh @ Dharmudas Wadhwani, age 38 years, S/o Shri Vishnumal Wadhwani, Mother- Isha Wadhwani, C/o Qr. No. LIG 116, Housing Board Colony, Charoda, Bhilai, Durg (C.G.),

... Applicant

Versus

Smt. Pinki Wadhwani, age 36 years, Mother- Isha Dingwani, R/o In front of Jhulelal Mandir, behind Jhangi Shop, Bhoipara, Lakhe Nagar, New Raipur (C.G.)

... Non-applicant

For Applicant	:	Applicant in person.
For Non-applicant	:	Mr. Ajay Mishra, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/02/2017

1. The present Criminal Revision under Section 19(4) of the Family Courts Act, 1984 has been preferred by the Applicant assailing the order dated 2.7.2016 passed by the First Additional Principal Judge, Family Court, Raipur, in Misc. Criminal Case No. 692 of 2015.
2. Vide impugned order dated 2.7.2016, the Court below as an interim measure in a proceeding under Section 125 of CrPC has allowed the application and ordered the present Applicant to pay an amount of Rs.2000/- to Non-applicant/wife and Rs.1500/- to the daughter born from the matrimonial relationship of the present Applicant with the Non-applicant.
3. Facts in brief are that the present Applicant and the Non-applicant, Smt. Pinki Wadhwani, got married on 15.2.2002. After some time, relationship between the two got strained and it is alleged that the Non-applicant has been staying separately since 2011-12 onwards. Subsequently, the present Applicant is said to have filed an application for divorce under Section 13 of the Hindu Marriage Act before the Family Court at Durg, which is pending consideration, and in the said proceeding an application for grant of interim

maintenance was moved by the Non-applicant and which has been allowed ordering for payment of Rs.1000/- as maintenance to Non-applicant and Rs.500/- as the cost of litigation for every date of hearing.

4. Meanwhile, the Non-applicant is said to have filed an application on 22.12.2015 before the First Additional Principal Judge, Family Court, Raipur, for grant of maintenance under Section 125 of CrPC, which has been registered as Misc. Criminal Case No. 692 of 2015. Along with the said application, the Non-applicant has also filed another application for grant of interim maintenance and claimed an amount of Rs.15,000/- as interim maintenance. The Court below vide impugned order dated 2.7.2016 allowed the said application and an amount of Rs.2000/- has been ordered to be paid as interim maintenance to the Non-applicant and Rs.1500/- to the daughter born to the Applicant from the Non-applicant.

5. It is this order which is under challenge in the present criminal revision.

6. The Applicant, who is appearing in person, assails the impugned order on the ground that the amount of Rs.3500/- awarded by the Court below as an interim maintenance is exorbitant and is on the higher side and is beyond his paying capacity. It is further contended that he does not have sufficient source of income and therefore it would be difficult for him to pay an amount of Rs.3500/- as awarded by the Court below. It is also contended that in a proceeding under Section 13 of the Hindu Marriage Act pending before the Family Court, Durg, there is already an order for payment of Rs.1000/- as maintenance to the Non-applicant and Rs.500/- has also been ordered to be paid for each date of hearing to meet the expenses. He also contends that he does not have any secured employment and that he is basically a hawker and earns only around Rs.6000-7000/- per month and he has also an aged father dependant upon him and therefore he has to meet the expenses of maintaining his father also. In addition, he submits that he does not have a

house of his own and is staying in a rented house and further that he does not have any property in his name and all these facts have not been looked into by the Court below while considering the application for grant of interim maintenance.

7. Shri Ajay Mishra, learned Counsel appearing for the Non-applicant, however, opposes the criminal revision and submits that all the contentions put forth by the Applicant is incorrect and that he has suppressed many material facts from this Court. According to Shri Mishra, the Applicant has two houses in his name, one is LIG No. 116, Housing Board Colony, Charoda, Bhilai, at District Durg and the another is, A-3, MP Housing Board Colony, Kota at Raipur. He further submits that the present Applicant also runs a Kirana Shop and has sufficient earning to pay the amount which has been awarded by the Court below and thus the impugned order does not warrant any interference.

8. At this juncture, the Applicant, who appears in person, submits that the two houses, as stated by the Counsel for the Non-applicant, admittedly were in his name but he has sold them in the year 2015. However, the amount of consideration has not been disclosed by the present Applicant. In addition, he has also denied of any Kirana Shop but is earning his income by doing his business as a hawker.

9. However, at this juncture, it would be relevant to take note of the fact that the present Applicant has been in the habit of making regular correspondences directly to the High Court and one such letter issued is a letter dated 9.2.2017. In this correspondence that he has made to the High Court, it has been reflected that he is staying at one of the houses which he is said to have sold in the year 2015. Therefore, the contention of the present Applicant of having sold the property stands disproved. The present criminal

revision also has been filed giving his address of the house in his name which alleged to have sold in the year 2015.

10. Counsel for the Non-applicant does not dispute the grant of interim maintenance by the Family Court, Durg.

11. Considering the total facts and circumstances of the case particularly, the fact that the impugned order is in nature of interim maintenance, this Court is of the opinion that ends of justice would meet if the interim maintenance awarded by the Court below of Rs.2000/- becomes inclusive of also any amount of interim maintenance which has been awarded by the Family Court, Durg in the proceeding under Section 13 of the Hindu Marriage Act pending before it. That is to say that the Applicant shall be liable to pay the amount of maintenance awarded by the Court below minus the amount which has been awarded by the Family Court, Durg in the proceeding under Section 13 of the Hindu Marriage Act, to be paid as maintenance to the Non-applicant. In other words, the amount of maintenance awarded by the Family Court, Durg shall stand adjusted to the amount of maintenance awarded by the Court below vide impugned order dated 2.7.2016.

12. With the aforesaid observations, the present Criminal Revision stands disposed of.

Sd/-
(P. Sam Koshy)
Judge