

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 911 of 2016**

Sharafat Khan S/o Ramjan Khan Aged About 30 Years Caste
Musalman, R/o Village Tengani, Police Station Patna, Tahsil
Baikunthpur, District Korea Chhattisgarh Presently Residing At
Masjid Dafai Surajpur, District Surajpur Chhattisgarh

---- Applicant

Versus

1. Rashida Begam W/o Sharafat Khan Aged About 29 Years Caste
Musalman, R/o Tengni, Police Station Patna, Tahsil Baikunthpur,
District Korea Chhattisgarh
2. Kumari Najiya D/o Sharafat Khan Aged About 13 Years Caste
Musalman (Minor), Through Natural Guardian Mother Smt. Rashida
Begam, R/o Tengni, Police Station Patna, Tahsil Baikunthpur,
District Korea Chhattisgarh

---- Respondents

For applicant - Shri Sampurnahle Gupta, Advocate appears on behalf of
Shri P.K. Patel, Advocate.
For Respondents – Shri Vasant Zokarkar, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order****27/03/2017**

1. Instant petition is against the order dated 24/08/2016 against
maintenance granted to respondents No.1 and 2 wife and daughter of
Rs.2500/- and 1200/- which has been directed to be paid from 2016.
2. Facts of this case are that respondent No.1 was married to the
applicant on 17/04/2001 according to the muslim rituals and out of the
wedlock daughter was born i.e. respondent No.2 Ku. Najiya. It was case
of the wife and children that the applicant has kept concubine Afsana
Begum and started neglecting to maintain them for which report was
made on 8/08/2015. It is alleged that the husband was earning
Rs.20,000/- per month from the avocation of driving and from the
agriculture Rs.10,000/- was being received, therefore Rs.12,000/- was

claimed for as maintenance. Applicant in his reply denied entire allegations.

3. It is submitted by learned counsel for the applicant that income of the applicant has wrongly been assessed and therefore grant of maintenance should not have been allowed.

4. Reading of the statement of the wife/respondent No.1 would show that she has categorically stated that she was married to the applicant on 17/04/2001 and out of the wedlock a child was born who is arrayed as respondent No.2 in this case aged about 13 years. It is stated that she is unemployed house wife and she stays in the house and the applicant/husband after he has kept concubine namely Afsana Begum thereafter stopped coming to her house. It is also stated that he is engaged in avocation of driving and used to earn Rs.12,000/- per month. It is further stated that daughter of non-applicant No.1 is studying in school in class 8th and including her tuition fees and transportation it comes to Rs.600/- per month, therefore Rs.3000-4000 was claimed. In the cross examination nothing has been substantially have been denied. Only suggestion was given that applicant is earning Rs. 2500-3000 per month which was denied. Statement of PW-2 Peer Khan would also show that non-applicant No.1 is house wife and Sharafat Khan had eloped with wife of one Sonu driver, thereafter he had stopped coming to the house. It is further stated that applicant was earning Rs.12,000/- per month. He is engaged in driving trailer. Apart from salary he is earning Rs.500/- per day as daily allowance. Statement has not been rebutted in the cross examination. Applicant/husband in his statement admits the fact that non-applicant No.1 was married to him on 17/04/2001 and out of the wedlock child was also born. Thereafter, since no male child was born, as such a dispute had occurred in between them. Subsequently, he was married to

one Afsana Begum and they started living separately. It is stated that he is working as driver and was earning Rs.2500 to 3000 and applicant could not handle the demand of his first wife, therefore she herself started living separately. Another witnesses DW-2 and 3 have been examined. No substantial statement have been made so as to justify non payment of maintenance.

5. Taking into totality of the statement of the applicant/husband and wife/respondent herein would show that marriage in between the parties have not been denied. Further statement made by the wife that daughter is studying in class – 8th and requires Rs.600/- as tuition and transportation fees in the school appears to be completely plausible. Applicant though claimed to earn Rs.2500-3000 and have stated that he is possessed with different documents but nothing has been placed on record to substantiate the same whereas reading of the statement of the wife would show that instead of exorbitant demand she has confined the demand to 3000-4000 per month and it is hard reality considering the price index demand made appears to be minimum no exorbitant demand is made. Considering such statement and amount of maintenance which has been awarded of Rs.2500/- to the wife and Rs.1200/- to the child, in my opinion appears to be just and reasonable which do not require any interference.

6. Accordingly, the criminal revision is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE