

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL REVISION NO. 1146 OF 2016

Chintamani Patra, S/o Shri Kunwarmani Patra, by caste Kolta, aged about 38 years, R/o Bamdadih, Post Salehtarai, Thana & Tehsil Basna, Civil & Revenue District Mahasamund (C.G.)

... Applicant

Versus

Minor Ku. Khirodini, D/o Shri Chintamani Patra, aged about 06 years, through her Natural Guardian Mother Smt. Bilasini Patra, W/o Shri Chintamani Patra, by caste Kolta, at present resident of Village Jeeradabari, P.S. & Tehsil Basna, Civil and Revenue District Mahasamund (C.G.)

... Non-applicant

For Applicant : Mr. Sumit Shrivastva, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/01/2017

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 4.11.2016 passed by the Family Court, Mahasamund, Camp Court Saraipali, in Misc. Criminal Case No. 152 of 2015.

2. Brief facts of the case are that the Non-applicant, who is a minor daughter of the Applicant, along with her mother Bilasini Patra, had filed an application under Section 125 of CrPC before the Court below seeking for maintenance. The Court below taking consideration the evidences which have come on record reached to the conclusion that, the wife, Bilasini Patra, is not entitled for any maintenance as she has left her matrimonial home without any strong and justified reason. However, the Court below ordered that the minor daughter i.e. the Non-applicant herein, who is admittedly under her natural guardianship and further the fact that the paternity of the Non-applicant is not in dispute or doubted by the Applicant, she is entitled for maintenance. Accordingly, the Court below vide impugned order allowed the said application so far as the present Non-applicant is concerned and ordered for payment of

Rs.2000/- per month as maintenance in her favour, which is under challenge in the present revision petition.

3. Counsel for the Applicant referring to paragraph 17 of the impugned order, submits that the sole ground for assailing the said order is the amount of Rs.2000/- awarded by the Court below in favour of Non-applicant, which is without any strong basis. That there is no document by which the source of income of the Applicant was established and by which the Court below could have reached to the conclusion of granting the payment of Rs.2000/- as monthly maintenance in favour of Non-applicant.

4. Having considered the contentions put forth by the Counsel for the Applicant and on perusal of the record, what clearly reflects is the fact that, the Applicant does not dispute the fact that the Non-applicant is his daughter. He does not dispute the fact that the Non-applicant was born from his relationship that he had with his wife, Bilasini Patra. It is further not in dispute that the Non-applicant is a school going girl, aged about 6 years. If all these facts are not in dispute, the only question which has to be seen is, whether the amount of Rs.2000/- per month awarded by the Court below in favour of Non-applicant is justified or not?

5. In present days cost of living, if we take into consideration the elementary requirement for sustenance of a six year old girl who is also a school going, it is anybody's guess that Rs.2000/- per month which has been awarded by the Court below cannot be said to be exorbitant or on the higher side. If we distribute Rs.2000/- to the 30 days of a month, it would be somewhere around Rs.70/- a day with which a person could barely sustain and meet the basic need of his/her life. Another fact which cannot be brushed aside is the fact that, the Applicant being the father is duty bound to maintain his daughter with all possible means that he has and even if he does not have any means even then he is duty bound to maintain his children and to provide

her a descent standard life. All these facts if are taken into consideration, Rs.2000/- awarded by the Court below as monthly maintenance cannot be said to be arbitrary or on the higher side so as to interfere with the same.

6. Accordingly, the Criminal Revision being devoid of merits, is dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/