

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.576 of 2017**

Chuman Lal Sahu, S/o Gokul Sahu, aged about 21 years, R/o Ward No.15, Sirsakhurd, Outpost Jewra Sirsa, Police Station Pulgaon, Tahsil and District Durg, Chhattisgarh

---- Applicant

versus

Dhanush Lal Sahu, S/o Chuman Lal Sahu, aged about 11 months (minor), through natural guardian mother Kumari Durpat Bai, D/o Toran Dhimar, r/o Village Sirsakhurd, Police Station Pulgaon, Tahsil and District Durg, Chhattisgarh

--- Respondent

For Applicant	:	Shri H.B. Agrawal, Senior Advocate with Smt. Prabha Sharma. Advocate
For Respondent	:	Shri P. Chetan Kumar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

23.7.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred against the order dated 6.5.2017 passed by the Family Court, Durg in M.Cr.C. No.573 of 2015, whereby the application under Section 125 of the Code of Criminal Procedure filed by the Respondent has been allowed and a monthly maintenance of Rs.2,000/- has been granted in his favour.
3. Before the Family Court, case of the Respondent was that the Applicant had a love relation with the mother of the Respondent. Physical relationship had also developed between them and as a result of which the Respondent took birth. Therefore, the

Respondent is an illegitimate child of the Applicant. In his reply, the Applicant pleaded that no physical relationship had developed between him and the mother of the Respondent. The Respondent is not his child. He has been acquitted of the charge framed against him under Section 376 of the Indian Penal Code in the case lodged by the mother of the Respondent.

4. Learned Senior Advocate appearing for the Applicant submits that since the Applicant has been acquitted of the charge framed against him under Section 376 of the Indian Penal Code on the allegation levelled by the mother of the Respondent, it is established that the Respondent is not his legitimate child and, therefore, the Respondent is not entitled to get any maintenance from the Applicant.
5. Per contra, Learned Counsel appearing for the Respondent submits that in the sessions trial it was the defence of the Applicant that a love relation had taken place between the Applicant and the mother of the Respondent and it was also admitted by the Applicant that due to the love relation, physical relationship had taken place between him and the mother of the Respondent. Therefore, it is established that the Respondent is the legitimate child of the Applicant.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. From perusal of the record of the Court below, it is found that the mother of the Respondent had lodged a report against the

Applicant that he had committed rape with her. As a consequence of her report, Sessions Trial No.98 of 2009 was registered and tried against the Applicant. Though in that sessions trial the Applicant has been acquitted of the charge vide the judgment dated 7.1.2010, from the record it is also clear that in that sessions trial it was the defence of the Applicant himself that there was a love relation between him and the mother of the Respondent and the mother of the Respondent was a consenting party to the physical relationship developed between them. Therefore, on the basis of this, the Family Court has rightly arrived at the finding that the Respondent is the legitimate child of the Applicant and this finding does not call for interference by this Court.

8. I find no merit in the revision. It is, therefore, dismissed.

Sd/-
(Arvind Singh Chandel)
Judge