

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.731 of 2017

Yogesh Manhar, aged about 42 years, son of Heeradhar, Caste Suryawanshi, resident of Rahaud, Tahsil Pamgarh, District Janjgir–Champa, Chhattisgarh

---- Applicant

versus

Kusum Bai, aged about 40 years, wife of Yogesh Manhar, Caste Satnami, resident of Village Ramgarh, Tahsil Mungeli, District Mungeli, Chhattisgarh

--- Respondent

For Applicant	:	Ms. Minu Banerjee, Advocate
For Respondent	:	Shri Ajay Kumrani, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

2.2.2018

1. The revision preferred under Section 19(4) of the Family Courts Act read with Sections 397 and 401 of the Code of Criminal Procedure is directed against the order dated 23.5.2017 passed by the Judge, Family Court, Janjgir, District Janjgir-Champa in Miscellaneous Criminal Case No.239 of 2016 dismissing the application of the Applicant/husband under Section 126 of the Code of Criminal Procedure.
2. Facts of the case are that the parties are husband and wife. From their wedlock, one girl child took birth. The Respondent/wife filed an application under Section 125 of the Code of Criminal Procedure, being Miscellaneous Criminal Case No.47 of 2012 in which she got an order of maintenance of Rs.1,500/- per month. Against this order, the Applicant/husband preferred an application under Section 126 of the Code of Criminal Procedure for setting aside the order of grant of maintenance on the ground that the Respondent/wife is competent to maintain herself because she is

employed in Government service as an Anganbadi Worker and is earning Rs.2,000/- per month from her said job. She, suppressing this fact, has obtained the maintenance order from the Court. His annual income is Rs.40,000/-. On this income, his old parents and sister are also dependent. The said application under Section 126 of the Code of Criminal Procedure was rejected vide the impugned order. Hence, this revision.

3. Learned Counsel appearing for the Applicant/husband submits that the Trial Court did not appreciate the fact that the Respondent/wife is employed as an Anganbadi Worker and is earning Rs.2,000/- per month from the said job and, therefore, she is competent to maintain herself. The Trial Court also ignored the fact that the husband earns Rs.40,000/- per year only and on this income his old parents and sister are also dependent. From the statement of Respondent/wife Kusum (NAW1), it is clear that she is getting Rs.2,000/- per month from her job as an Anganbadi Worker.
4. Learned Counsel appearing for the Respondent/wife supported the impugned order.
5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
6. The Applicant/husband himself has admitted his yearly income to be Rs.40,000/-. The Applicant/husband has not established any income of the Respondent/wife other than the monthly income of Rs.2,000/- from her job as an Anganbadi Worker. Looking to the present inflation/price index, the monthly income of Rs.2,000/- cannot be held to be sufficient for the Respondent/wife. In this circumstance, the grant of maintenance of Rs.1,500/- per month in

favour of the Respondent/wife is just and proper and, therefore, rejection of the application under Section 126 of the Code of Criminal Procedure moved by the Applicant/husband does not warrant any interference by this Court.

7. In the result, the revision is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge