

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 527 of 2015**

Smt. Madhuri Prasad W/o Late Krishnamohan Prasad, aged 60 years R/o E.W.S 333, Vaishalinagar, Bhilai Tahsil and District- Durg (C.G.).

----Applicant**Versus**

1. Ravi Mohan Prasad S/o Late Krishnamohan Prasad, aged about 39 years R/o E.W.S 333, Vaishalinagar, Bhilai, Tahsil and District Durg (C.G.).
2. Indrajit Mohan Prasad S/o Late Krishnamohan Prasad, aged about 32 years R/o (1) Behind Police Station Supela, First Road, Bhilai, Tahsil and District Durg (C.G.). (2) E.W.S, 326, Vaishalinagar, Bhilai, Tahsil and District Durg (C.G.).

---- Respondent

For Applicant	:	Mr. Govind Ram Miri, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****30/04/2019**

1. This revision has been filed against the order dated 18/05/2015 passed in Criminal MJC No. 590/2013 by the Principal Judge, Family Court, Durg, whereby the Principal Judge while allowing the application under Section 125 of the Cr.P.C has granted monthly maintenance of Rs. 1500/- to the Applicant from Respondent No.1, and exonerated Respondent No. 1 from making any payment.
2. Facts of the case are that an application under Section 125 of the Cr.P.C was filed before the Family Court by the Applicant with the averments that the husband of the Applicant had retired from services in the year 1996 and has died five years ago, leaving behind the Applicant i.e. Wife, three sons i.e. the Respondents and one Chandramohan, one daughter Meenakshi

and one adopted daughter namely Ankita Prasad. All children except Ankita Prasad are married and well settled. It was further pleaded by her that since she is an old lady and due to this she is unable to maintain herself. She also no means for it. Presently, his third son is only helping her and giving Rs. 3000/- monthly, which is insufficient. Both the Respondents manufacture artificial limb and from that work, they earn Rs. 1 lakh per month, therefore, they have sufficient means to maintain her.

3. In his reply, Respondent No. 1 pleaded that he does a private job and earns only Rs. 5 to 6 thousand. Two children and his wife is dependent upon him. The Applicant herself did not care him and his son. Still, she is residing in his house and his wife cares the Applicant and provide meal. The Applicant has only moved this application only to harass them, which should be rejected.
4. Respondent No. 2 in his reply has pleaded that he is paying the maintenance to the Applicant. Though he does the work of artificial limb, he earns limited income. His wife and two children are dependent upon him. Looking to his income, he is unable to pay maintenance to his mother, however, he is ready to keep her with them.
5. After recording the evidence of both the parties and hearing their submission, the learned Family Court has partly allowed the application and granted maintenance as mentioned in paragraph one of this order. Thus, this revision.
6. Counsel for the Applicant submits that there is sufficient evidence available on record, which establish that Respondent No. 1 has also sufficient means

to maintain herself, but the learned Family Court without proper appreciation of evidence and ignoring the above fact, has exonerated Respondent No.1 from making any maintenance amount. Therefore, some suitable maintenance amount may be permitted to give to the Applicant from Respondent No. 1.

7. No one appears on behalf of the Respondents, even when the matter is called out twice and thrice in the preceding days of the week.
8. I have heard counsel for the Applicant and perused the records available.
9. There is no dispute on the point that the Applicant have three sons and her third son is giving Rs. 3000/- monthly voluntarily for her maintenance. Respondent No. 1 during his cross-examination admitted the fact that from last 19 years he is manufacturing artificial limbs. He denied the fact that he earns Rs. 1 lakh monthly from the said work and only earns Rs. 10-12 thousand monthly. However, he admitted the fact that when he started the said work, at that time he used to earn Rs. 15-20 thousand monthly. The fact that 19 years ago, he used to earn Rs. 15-20 thousand monthly and right now he is earning Rs. 10-12 thousand from the same work, is not admissible in the eye of law. The learned Family Court has exonerated Respondent No. 1 from making any maintenance amount only on the ground that his wife is preparing food etc. for the Applicant. Apart from that, there is no evidence available on record which shows that any other help is being provided to the Applicant. From the evidence, it is also clear that Respondent No. 1 has sufficient means to maintain the Applicant.
10. Looking to the earning of Respondent No. 1 and financial status of the

Applicant, it would be proper to grant maintenance of Rs. 1000/- monthly to the Applicant from Respondent No. 1. Thus, it is ordered that Respondent No. 1 shall now pay Rs. 1000/- as monthly maintenance to the Applicant from today. The order of the Family Court in respect to Respondent No. 2 shall remain affirmed.

11. Consequently, the revision is allowed to the extent indicated above.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul