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HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 732 of 2014**

- Sadan Kumar Singh S/o Sandeshwar Singh Aged About 40 Years Caste-Kanwaqr, R/o Village Darima, P.S. Darima, Tahsil Ambikapur, Civil And Revenue Distt. Surguja C.G.

---- Applicant**Versus**

1. Sheela Singh And Anr. W/o Sadan Singh Aged About 26 Years Caste-Kanwar, R/o Village Darima, P.S. Darima, Tahsil Ambikapur Civil And Revenue Distt. Surguja C.G.
2. Minor Shahil S/o Sadan Singh Aged About 2 Years Caste Kanwar, R/o Village Darima P.S. Darima, Thasil Ambikapur Civil And Revenue Distt. Surguja C.G. Minor Through Natural Guardian Mother I.E. Sheela Singh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant	:	Mr. Vivek Bhakta, Adv.
For Respondents	:	None.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****29/08/2019**

1. Heard on admission.
2. The present revision has been filed by the applicant against the order dated 08.07.2014 in Misc. Criminal Case No. 11/2012 passed by the Judge, Family Court, Ambikapur, District-Surguja, C.G. whereby the learned trial Court has partly allowed the maintenance application filed under Section 125 of Cr.P.C. and dismissed claim of Respondent No. 1 and awarded Rs. 3,000/- as monthly maintenance in favour of the Respondent No. 2 and further awarded Rs. 17,000/- towards expenditure of the case in favour of Respondent No. 1.
3. Brief facts of the case are that, respondent filed an application under Section 125 Cr.P.C. on this ground that, applicant had made a relationship with the Respondent No. 1 after giving promises to

marry. In this relationship, a male child (respondent No. 2) took birth. Applicant is the biological father of the Respondent No. 2 but applicant denied the allegation made against him by Respondent No. 1 and contended that he is a married person and his wife Rekha Singh is alive. Respondent No. 1 is unable to maintain herself and her son as well, so, she filed application for maintenance and demanded Rs. 4,000/- per month as maintenance.

4. In his reply, the applicant denied all allegations made by the respondent and stated that he never marriage with the Respondent No. 1, his wife is Rekha Singh and they have three children. Respondent No. 1 filed complaint against him under Section 376 of IPC. The applicant faced trial and acquitted by trial Court of the charge. Respondent No. 1 and 2 are not his wife and son respectively, therefore, they are not entitled to get any maintenance.
5. After hearing both the parties and after perusing the documents on record learned Court below refused to grant maintenance to Respondent No. 1 and awarded Rs. 3,000/- per month maintenance in favour of Respondent No. 2 and further awarded Rs. 17,000/- towards expenditure of the case in favour of Respondent No. 1. Hence, this revision.
6. Learned counsel for the applicant submits that impugned order dated 08.07.2014 passed by the Court below is against the facts, materials and evidence available on record, which is liable to be set aside. Learned Court has failed to appreciate that the Respondent No. 2 is not a son of the applicant. The learned trial Court below has awarded maintenance in favour of Respondent No. 2 on higher side. But the award of Rs. 17,000/- as cost to the Respondent No. 1 is irrational and unjustified so, impugned order is liable to be set aside.
7. None appears on behalf of the Respondents though, notice has been duly served.
8. Heard the learned counsel for the applicant and perused the material available on record.

9. Before trial Court Respondent No. 1 examined herself as well as one witness namely Sunita Bai in her favour. On the other side, the applicant examined himself.
10. It is clear from the record and statement of both the parties that applicant had already married in the year 1989 with one Rekha Singh. It is also clear that Respondent No. 1 made a report against the applicant for offence punishable under Section 376 of IPC. After trial, applicant was acquitted of the charges. Learned Family Court appreciated evidence of both sides in para 6-14 and finds that Exhibit-P-1, DNA report proved that applicant is a biological father of the Respondent No. 2 and partly allowed the application in favour of the Respondent No. 2 and awarded maintenance of Rs. 3,000/- per month and also finds that the Respondent No. 1 has paid fees of DNA test which was Rs. 16,854/- and awarded Rs. 17,000/- as expenditure of the case. These findings are also based on proper appreciation of oral and documentary evidence. This Court do not find any illegality or irrationality in these findings.
11. Thus, there are no circumstances in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below at the admission stage itself.

**Sd/-
(Rajani Dubey)
JUDGE**