

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.319 of 2018

Jivan Lal Barman, S/o Late Sukhiram Barman, aged about 40 years, resident of Baloda, Police Station and Tahsil Baloda, District Janjgir-Champa, Chhattisgarh

---- Applicant

versus

1. Smt. Pritima Barman, W/o Jivan Lal Barman, aged about 32 years,
2. Ku. Pratiksha, D/o Jivan Lal Barman, minor represented through her mother i.e. Smt. Pritima Barman, W/o Jivan Lal Barman, aged about 12 years,

Both Respondents No.1 and 2 are residents of Baloda, Police Station and Tahsil Baloda, District Janjgir-Champa, Chhattisgarh

--- Respondents

For Applicant	:	Shri Jitendra Gupta, Advocate
For Respondents	:	Ms. Ranjana Singh Tomar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

8.1.2019

1. With the consent of Learned Counsel appearing for the parties, the revision is heard finally.
2. The instant revision has been preferred against the order dated 19.2.2018 passed by the Family Court, Bilaspur in M.J.C. No.771 of 2017, whereby the Family Court has ordered for attachment of the property of the Applicant. Hence, this revision.
3. Facts of the case, in brief, are that initially, an application under Section 127 Cr.P.C. was allowed in favour of the Respondents.

Thereafter, they moved an application under Section 127 Cr.P.C. for further enhancement in the amount of maintenance. Vide order dated 1.8.2017, the said application was allowed by the Family Court and the amount of maintenance was enhanced from Rs.3,000/- to Rs.10,000/- in favour of Respondent No.1 and from Rs.1,500/- to Rs.8,000/- in favour of Respondent No.2. The Applicant preferred a revision against the said order. Vide order dated 27.9.2017 passed in Criminal Revision No.814 of 2017, an interim direction was passed by this Court in which it was directed that the Applicant shall pay Rs.4,000/- in place of Rs.10,000/- for the wife and for the daughter it was directed that there shall be no change in the amount of maintenance. On 24.10.2017, an application under Section 125(3) Cr.P.C. was submitted by the Respondents before the Family Court for recovery of arrears of amount of the maintenance for a period of the last 3 months, i.e., @ Rs.18,000/- per month. In that proceeding, on 1.2.2018, an application was filed by the Respondents to the effect that amount of maintenance @ Rs.12,000/- per month may be paid to them by making deductions from the salary of the Applicant. The said application was allowed by the Family Court. Thereafter, on 19.2.2018, the impugned order was passed by the Family Court mentioning that the Applicant is not making payment of arrears of the amount of maintenance without any cause and, therefore, a levy warrant was ordered to be issued against him.

4. Learned Counsel appearing for the Applicant submits that as per order of this Court dated 27.9.2017, the Applicant is to make payment of amount of maintenance @ total Rs.12,000/- per month for the Respondents. Therefore, from the date of enhancement,

i.e., 1.8.2017 till date, the Applicant has to pay arrears of amount of maintenance @ Rs.12,000/- per month for total 17 months, which comes to Rs.2,04,000/-. He further submits that according to the memo dated 26.10.2018 of the BEO, Takhatpur, a sum of Rs.1,35,000/- has been deducted from the salary of the Applicant for the period from September, 2017 to September, 2018 towards the maintenance granted to the Respondents. He further submits that there are relevant entries in the passbook of Respondent No.1 and as per the entry dated 3.8.2018 Rs.20,000/-, as per the entry dated 10.9.2018 Rs.20,000/- and as per the entry dated 3.10.2018 Rs.20,000/-, total Rs.60,000/- was deposited by the Applicant in addition to the aforesaid amount of Rs.1,35,000/-. He further submits that as per the order passed by this Court, on 25.4.2018, a sum of Rs.22,500/- was also deposited by the Applicant in C.C.D. Thus, the Applicant has made payment of Rs.2,17,500/- towards the maintenance. The total due amount against the Applicant is Rs.2,04,000/-, but he has already deposited Rs.2,17,500/-.

5. Learned Counsel appearing for the Respondents does not dispute the above facts put forward on behalf of the Applicant.
6. Thus, it is clear that the Applicant has made excess payment towards the maintenance. While passing the impugned order dated 19.2.2018, the Family Court has not discussed about the amount due against the Applicant and has straightway ordered to issue a levy warrant and it has also not been mentioned in the order that for what amount the levy warrant was ordered to be issued. Since the Applicant has already made excess payment, he is not required to make any further payment.

7. In view of the aforestated premises, the instant revision stands disposed of.
8. Record of the Court below be sent back along with a copy of this order for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge