

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 208 of 2011**

1. Smt. Bharti Madnani W/o Manoj Madnani, aged about 39 years,
2. Rahul Kumar Madnani, S/o Manoj Madnani, Aged about 16 years,
3. Ku. Manika Madnani D/o Manoj Madnani, Aged about 14 years,
4. Nitesh Kumar Madnani S/o Manoj Madnani, Aged about 13 years,

Applicants No. 2 to 4 are Minor represented by their Natural Guardian and Mother Applicant No.1 Smt. Bharti Madnani,

All R/o Kabir Nagar, M.I.G. Standard Quarter No. 245, Phase 1 Mahobabazar Raipur CG

----Applicants**Versus**

- Manoj Kumar Madnani S/o Shri Mohan Lal Madnani, Aged About 43 Years, R/o Behind House of Brijmohan Agrawal, Near house of Ratan Chand Golchha, Near Goura Para, Lalit Kunj, Ram Sagar, Para, Raipur CG

---- Respondent

For Applicants	: Shri Suresh Tandon, Advocate
For Respondent	: None though served

Hon'ble Smt. Justice Rajani Dubey**Order On Board****07.08.2019**

1. This revision is preferred against the order dated 13.12.2010, passed by the First Additional Principal Judge, Family Court, Raipur(CG) in Misc. Cr. Case No.82/2010 wherein the said Court has partly allowed the application filed by the applicants under Section 125 Cr.P.C. and granted maintenance of Rs.4000/- per month.

2. Before the Family Court the applicants (wife and children) filed an application under Section 125 Cr.P.C. on the ground that they are wife and children of the respondent. The respondent is living separately from the applicants. Applicant No.1(wife) is unable to maintain herself and her children. The earning of the respondent is more than Rs.60,000/- per month, therefore, they pray for grant of maintenance of Rs.40,000/- per month.
3. In reply, the respondent(husband) denied all the allegations and submitted that applicant No.1 along with children left him without any reason. She is earning Rs.7,000/- to Rs.8,000/- per month by running grocery shop and a Beauty Parlour.
4. The learned Family Court after hearing both the parties and oral and documentary evidence on record, partly allowed the application filed by the applicants and awarded maintenance of Rs.2,000/- per month in favour of applicant No.1-wife, Rs.1,000/- to applicant No.3-Ku. Manika Madnani, daughter and Rs.1,000/- to applicant No.4-Nitesh Kumar Madnani-son, in all, Rs.4,000/- per month. Hence, this revision.
5. Learned counsel for the applicants submits that applicant No.1 is paying house rent of Rs.2,000/- per month and the maintenance amount is Rs.4,000/- which is not sufficient looking to the social status and daily requirement of the applicants 1, 3 and 4. Only on the basis of statement of minor applicant No.2- Rahul Kumar Madnani and the respondent, the Family Court has not awarded any maintenance to applicant No.2. He submits that children of

the applicant are School going and requires more amount for proper care, therefore, the maintenance awarded is on lower side. A mutual agreement dated 19.3.2008 has been marked as Ex. P-1/C which has not been disputed by the respondent, but the learned Family Court has not considered this aspect. Despite this, the respondent has 3 houses in his possession, therefore, the maintenance awarded may be enhanced.

6. None appeared for the respondent though notice has been served.
7. I have heard learned counsel for the applicants and perused the impugned order and the material on record.
8. Admittedly, the applicants are wife and children of the respondent. Before the Family Court, applicant No.1 Bharti Madnani and applicant No.3- Ku. Manika Madnani have been examined as AW1 and AW2 and the respondent and Rahul Madnani (applicant No.2) have been examined as NAW1 and NAW2. The applicants did not file any documentary evidence regarding income of the respondent. The Family Court held in para 11 of the order that regarding income of the respondent as Rs.60,000/- to 70,000/-, there is no evidence and assuming the income of the respondent as Rs.8,000/- to 10,000/-, maintenance of Rs.4,000/- has been awarded as above in favour of the applicants 1, 3 and 4. The applicants have not produced any documentary evidence regarding income of the respondent, therefore, the Family Court has rightly passed the order of

maintenance in favour of the above applicants assuming the income of the respondent as Rs.8,000/- to Rs.10,000/-. So far as maintenance to applicant No.2- Rahul Kumar Madnani is concerned, he himself has stated that he is living with his father, therefore, no order for maintenance is required for him. The order passed by the Family Court is just and proper and requires no interference by this Court.

9. Accordingly, the revision being devoid of merits is liable to be and is hereby dismissed.

Sd/

(Rajani Dubey)

JUDGE