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HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 464 of 2019**

- Manjay Chandel S/o Ramsohagi Aged About 36 Years R/o Village Achholi, Police Station Dhamdha, Tahsil Dhamdha, District - Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant**Versus**

1. Smt. Summi W/o Shri Manjay Aged About 29 Years R/o Village Achholi, Police Station Dhamdha, Tahsil Dhamdha, District - Durg Chhattisgarh. Presently Residing At Parents House Through Shri Douwa Ram Janghel, Ward No. 18, Krishna Nagar, Ram Nagar, Police Station Gudhiyari, Tahsil And District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Ku. Vanshika Chandel D/o Manjay Aged About 9 Years Minor Through Legal Guardian Mother Smt. Summi, W/o Shri Manjay Chandel, Aged About 29 Years, R/o Parents House Through Shri Douwa Ram Janghel, Ward No. 18, Krishna Nagar, Ram Nagar, Police Station Gudhiyari, Tahsil And District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Ku. Himanshi Chandel D/o Manjay Chandel Aged About 3 Years Minor Through Legal Guardian Mother Smt. Summi, W/o Shri Manjay Chandel, Aged About 29 Years, R/o Parents House Through Shri Douwa Ram Janghel, Ward No. 18, Krishna Nagar, Ram Nagar, Police Station Gudhiyari, Tahsil And District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

----Respondents

For Applicant	: Shri O.P. Sahu, Advocate
For Respondents	: None

Hon'ble Smt. Justice Rajani Dubey**Order On Board****26.8.2019**

1. Heard on admission.
2. This revision is directed against the order dated 5.2.2019, passed by the 2nd Additional Principal Judge, Family Court, Raipur (CG) in Misc. Cr. Case No.37/2018, whereby, the Court below has allowed the interim application filed by the respondents and

granted them interim maintenance of Rs.4000/- per month, till the disposal of the case.

3. Brief facts of the case are that before the Family Court, the respondents(wife and children) filed an application under Section 125 Cr.P.C. for grant of interim maintenance of Rs.10000/- per month from the applicant, who is husband of respondent No.1 and father of respondents 2 and 3, which was partly allowed by the Judge Family Court and awarded interim maintenance of Rs.2000/- in favour of respondent No.1-wife and Rs.1000/-, Rs.1000/- to respondents 2 and 3 both the daughters, total Rs.4000/- per month. Hence, the applicant has filed this revision for setting aside the order.
4. Learned counsel for the applicant submits that the trial Court has not considered the facts and evidence adduced by the parties and passed the order of maintenance in favour of the respondents, which is unjust, illegal and unwarranted and the same cannot be sustained in the eye of law. He further submits that the applicant has filed application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court, Durg and the Family Court has issued notice to respondent No.1 as well as published the notice in daily newspaper. He submits that after receiving the notice, respondent No.1 has filed the application for grant of maintenance. The applicant is doing labour work in MANREGA and used to earn

Rs.250/- per day, therefore, the applicant is not able to pay maintenance awarded by the Family Court to the respondents.

5. No one appears on behalf of the respondents though notice has been served.
6. I have heard learned counsel for the applicant and perused the impugned order.
7. For grant of interim maintenance, Court has to see prima facie relations between the parties and earning capacity of the husband. Relation between the parties is not in dispute. The Court will decide all the factual and legal aspects of the matter after recording evidence and hearing the parties. Before the Family Court, the applicant has submitted that he is doing labour work and his earning is Rs.250/- per day. The amount of maintenance of Rs.4000/- per month is very high for a labourer. The respondents have to prove the income of the applicant. Considering the overall evidence and the fact that the applicant is doing labour work and earning Rs.250/- per day, thus, Rs.8000/- per month and Rs. 4000/- per month is a big amount for him to pay per month to the respondents. As the applicant has no regular income and he is a labourer, therefore, it would be appropriate to reduce the amount Rs.4000/- to Rs.2000/- per month in the interest of justice.
8. Accordingly, the revision is partly allowed and it is ordered that now the applicant shall pay interim maintenance of Rs.1000/- to

respondent No.1- wife, Rs.500/- to respondent No.2 – Ku. Vanshika Chandel and Rs.500/- to Ku. Himanshi Chandel, total Rs.2000/- per month.

9. The revision stands disposed of at the motion stage itself.

Sd/

(Rajani Dubey)

JUDGE

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