

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 771 of 2018

Narsingh Sharma, S/o. Late Ramsharan Sharma, Aged About 50 Years,
R/o. Old Power House, Devridih, P.S. Torwa, Tahsil & District Bilaspur,
Chhattisgarh

---- Petitioner

Versus

1. Smt. Kaushalya Sharma, W/o. Narsingh Sharma, Aged About 38 Years.
2. Abhishek Sharma, S/o. Narsingh Sharma, Aged About 14 Years, Minor Through Natural Guardian Mother Smt. Kaushalya.

Both 1 & 2 R/o. Gajendra Sharma (Police Department), Maharshi Chowk, Alakhdam, Mangla, P.S. Civil Line, Bilaspur, Chhattisgarh.

3. Shalu Sharma, D/o. Narsingh Sharma, Aged About 23 Years.
4. Raja Sharma, S/o. Narshingh Sharma, Aged About 20 Years.
5. Goldi Sharma, S/o. Narsingh Sharma, Aged About 9 Years, Minor Through Natural Mother Smt. Kaushalya Sharma

All No.3 to 5 are R/o. Gajendra Sharma (Police Department), Maharshi Chowk, Alakhdam, Mangla, P.S. Civil Line Bilaspur, Chhattisgarh. Presently Residing With Applicant At Old Power House, Devridih P.S. Torwa, Tahsil & District Bilaspur, Chhattisgarh

6. Shivkumari Sharma (Now Dead)
7. Shekhar Sharma, S/o. Late Ram Sharan Sharma, Aged About 35 Years, R/o. Old Power House, Devridih, P. S. Torwa, Tahsil & District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Mr. B.L.Dembra, Advocate
For Respondent No.1 : Mr. Rajeev Kumar Dubey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

30.01.2019

Heard

1. The present petition is against the order dated 22nd November, 2017 passed by the third Additional Sessions Judge is Criminal Appeal No. 43 of 2017. By such order, the Appellate Court has declined to interfere in the order of the Judicial Magistrate First

Class dated 17.02.2017 wherein interim maintenance was granted to the wife and the children as against the petitioner/ husband.

2. Learned counsel for the petitioner would submit that the wife is able to earn her livelihood, she is working as partner in some Herbal Life Company and during the pendency of the petition, out of the respondents, three children namely Respondent No. 2 Abhishek Sharma, Respondent No.4 Raja Sharma & Respondent No. 5 Goldi Sharma has come back to their father and the maintenance was granted including maintenance of the children. Therefore, due to this change of circumstances, the maintenance of Rs. 10,000/- could not be awarded.
3. Per contra, learned counsel for the Respondent No. 1 submits that after the order is passed, huge amount of arrears remains and it is not paid. It is further submitted that an application under Section 125 of the Cr.P.C. was filed which was dismissed for the reason that interim maintenance has been granted under the Domestic Violence Act and neither the amount has been given nor the maintenance is being granted under Section 125 of Cr. P.C.
4. Perused the orders of the Court below. Both the Court below has come to a finding that it is not disputed that the Respondent No. 1 is the wife and the other respondents are the children out of which two are minors. Perusal of the order shows that the Court below has granted the maintenance of Rs. 10,000/- for house rent as also for livelihood including the expenses for the education. Taking into such quantum of amount, which includes the house rent as also maintenance and comparing it with the price-index which is prevailing in the society, the same cannot be said to be exorbitant. The quantum of income of the parties can be ascertained during

the course of trial. At this stage, I do not find any infirmity in the order to interfere in exercise of power under Section 482 of Cr.P.C.

5. In view of the above, the petition has no merit and accordingly is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok