

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on 31.7.2019****Order delivered on 20.9.2019****CRR No. 513 of 2019**

1. Smt. Shahina Parveen W/o Abdul Kasam Aged About 24 Years
Caste Musalman, R/o Village Latabod, Police Station, Tahsil And
District Balod Chhattisgarh
2. Sara Parveen D/o Abdul Kasam Aged About 08 Months (Minor) ,
Through Natural Guardian Mother Smt. Shahina Parveen W/o
Abdul Kasam, Aged About 24 Years, Caste Musalman, R/o Village
Latabod, Police Station, Tahsil And District Balod Chhattisgarh,
District : Balod, Chhattisgarh

----Applicants**Versus**

- Abdul Kasam S/o Marhoom Abdul Kadar Aged About 37 Years
Caste Musalman, R/o Infront Of Sharda Petrol Pump, Moti Nagar
Boriyakhurd, Raipur, Tahsil And District Raipur Chhattisgarh.

----Respondent

For Applicants	: Shri Shikhar Sharma, Advocate
For Respondent	: Shri Vijay Sahu, Advocate

Hon'ble Smt. Justice Rajani Dubey**CAV Order**

1. This revision is directed against the order dated 07.02.2019
passed by the First Additional Principal Judge, Family Court /Link
Court, Balod(CG) in Case No. 121/2018, whereby the Judge
Family Court has partly allowed the application filed by the
applicants 1 and 2 under Section 125 Cr.P.C. and granted them
monthly maintenance of Rs.2000/- and Rs.1000/- respectively.
2. Facts of the case are that the applicants (wife and daughter) filed
an application under Section 125 Cr.P.C. before the Family Court
for grant of interim maintenance from the respondent and the

Family Court has partly allowed the application and granted interim maintenance of Rs.2000/- to applicant No.1-wife and Rs.1000/- to applicant No.2- daughter, total Rs.3000/- per month. The applicants have filed this revision for enhancement of the amount of interim maintenance.

3. Learned counsel for the applicants submits that the order passed by the Family Court is arbitrary, illegal and on lower side, therefore, the maintenance amount may be enhanced properly. He submits that the photographs clearly shows that the respondent's standard of living is very high and he is earning Rs.34,923/- as basic salary working on the post of Clerk in Chhattisgarh State Electricity Department. The respondent is also having agricultural land in village Kikirmeta, out of which, he earns Rs.1,00,000/- per year, therefore, the amount of interim maintenance may be enhanced properly.
4. Learned counsel for the respondent supported the impugned order and submitted that the order passed by the Family Court is just and proper and requires no interference. He further submits that the respondent has never tortured applicant No.1 and she is living separately on her own will and on the other hand, she was torturing his mother and threatening him for giving divorce, therefore, she is not entitled for any maintenance.
5. The Family Court vide impugned order dated 7.2.2019 has granted maintenance of Rs.2000/- and Rs.1000/-, in all, Rs. 3000/- per month in favour of the applicants, wife and daughter.

6. I have heard learned counsel for parties and perused the impugned order and record of the court below.
7. For grant of interim maintenance, the court has to see prima facie grounds regarding relation between the parties and earning capacity of the husband. The proceedings under Section 125 Cr.P.C. are of summary nature and are intended to enable destitute wives and children, the latter whether they are legitimate or illegitimate, to get maintenance in speedy manner. The order passed under Section 125 Cr.P.C. is a summary order which does not finally determine the rights and obligations of the parties thereto.
8. In the present case, it is an admitted fact that the applicants are wife and daughter of the respondent and whether applicant No.1 along with her minor daughter is living separately on a reasonable ground or not has to be decided on the basis of merits. The husband is duty bound to maintain his wife and children. Before the Family Court, the applicant No.1 has filed pay-slip of the respondent which shows that in the month of May, 2018, he was drawing take home salary of Rs.48,492/-. The Family Court has awarded only Rs.3000/- to both the applicants which is a meager amount looking to the income of the respondent. The respondent did not file his bank statement which shows that he is getting salary of Rs.16,173/- after deduction.
9. Taking into consideration, the basic salary of the respondent as Rs.34,923/- and he is a Clerk in Chhattisgarh State Electricity

Board, the amount of maintenance awarded to the applicants for Rs.3000/- requires to be enhanced. Accordingly, the same is modified and enhanced to Rs.10,000/-. The applicant No.1- wife shall be entitled for Rs.5,000/- and applicant No.2-daughter is also entitled for Rs.5,000/-, in all, Rs.10,000/- per month as interim maintenance. The respondent now shall pay to the applicants Rs.10,000/- per month as interim maintenance from the date of receipt of copy of this order. Record be sent back immediately.

- 10.** With the aforesaid modification, the petition stands disposed of.

Sd/

(Rajani Dubey)
JUDGE