

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.1427 of 2018****Order reserved on: 22.11.2019****Order delivered on: 26.11.2019**

Akhilesh Kumar Jagatramka, S/o. Ganesh Jagatramka,
Aged about 45 years, Occupation-Business, R/o. Shyam
Talkies Road, Nai Sarak, Raigarh, Tehsil & District
Raigarh (CG)

----- Petitioner**Versus**

1. Ganesh Kumar Jagatramka, Aged About 73 years, S/o.
Late Banwarilal Jagatramka, Occupation-Nothing, R/o.
Shyam Talkies Road, Tehsil and District Raigarh (CG)
2. Smt. Pratibha Devi Jagatramka, Aged About 68 years,
Occupation-House Wife, R/o. Shyam Talkies Road,
Tehsil and District Raigarh (CG)

----- Respondents

For Petitioner	:	Mr. Pawan Keshrawani, Advocate
For Respondents	:	Mr. Vipin Punjabi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Judgment**

1. The parents of the petitioner who are arrayed as respondents No.1 and 2 herein filed an application under Section 125 of the CrPC claiming maintenance against the petitioner stating that they are unable to maintain themselves and the petitioner is having sufficient means to maintain them. Therefore, they be granted interim maintenance during the pendency of final maintenance proceedings.
2. The Family Court, Raigarh by its order dated

22.2.2018 granted interim maintenance to the respondents herein to the extent of ₹10,000/- and ₹30,000/- respectively to respondents No.1 and 2 herein. Against the order of the Family Court, Raigarh, the petitioner preferred petition being Cr.M.P.No.514/2018 (Akhilesh Kumar Jagatramka v. Ganesh Kumar Jagatramka and another) before this Court, in which this Court on 15.5.2018 set aside the order of the Family Court finding that the parties have not filed affidavits in support of their application for interim maintenance and reply of that application and directed the Family Court to pass order afresh after affidavits are filed by the parties. Thereafter, the petitioner and the respondents have filed their affidavits before the Family Court, Raigarh. Again by the impugned order dated 1.6.2018, the Family Court, Raigarh has passed an order granting interim maintenance to the extent of ₹10,000/- to respondent NO.1 (father of the petitioner) and ₹30,000/- to respondent No.2 (mother of the petitioner), against which, this Cr.M.P. under Section 482 of the CrPC has been filed.

3. Mr. Pawan Kesharwani, learned counsel for the petitioner, would submit that the Family Court is absolutely unjustified in granting interim

maintenance to the respondents as they are having sufficient income to maintain themselves and are having huge landed property, therefore, interim maintenance could not have been granted to them, as such, the impugned order deserves to be set aside.

4. On the other hand, Mr. Vipin Punjabi, learned counsel for the respondents, would support the impugned order.

5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

6. Pursuant to order of this Court dated 15.5.2018, affidavits have been filed by both the parties. The Family Court after perusal of affidavits of the parties came to the conclusion that the respondents have landed property in their names, but looking to their old age i.e. 75 and 68 respectively, they are unwell and undergoing treatment and they are not having income to maintain themselves, they are entitled for interim maintenance during the pendency of maintenance proceeding and held that respondent No.1 will be entitled for ₹10,000/- per month and respondent No.2 will be entitled for ₹ 30,000/- per month as interim maintenance.

7. The question for consideration would be, whether finding recorded by the Family Court granting interim maintenance is perverse and contrary to record ?
8. A bare perusal of the affidavits filed by the respondents would show that number of complaints and cases are pending, filed by parties against each other. The petitioner has filed affidavit and also filed copy of the order passed on 2.12.2018, copy of balance-sheet and ITR document which is of the year 2013-14. From the aforesaid affidavit, it is nowhere apparent that the respondents are having sufficient income to maintain themselves. Even before this Court, the petitioner has failed to show that the respondents are having sufficient income to maintain themselves. Merely because they are having some landed property and they have filed civil/criminal cases against the petitioner, they cannot be denied the privilege of interim maintenance during the pendency of maintenance proceeding, as such, I do not find any illegality or perversity in the order passed by the Family Court, Raigarh.
9. Accordingly, the Cr.M.P. being devoid of merit is labile to be and is hereby dismissed. The petitioner is directed to pay the amount of interim maintenance

to the respondents, if already not paid, within two weeks from today.

Sd/-

(Sanjay K.Agrawal)

Judge

B/-