

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 897 of 2018

- Gopaldas S/o Late Asandas Aged About 32 Years Caste Panika R/o Village Baloda, Maveshi Bazar Ward No. 15 Post Baloda, Tahsil Baloda District Janjgir Champa Chhattisgarh

---- Applicant

Versus

1. Leelabai Wd/o Late Asandas Aged About 55 Years Caste Panika R/o Village Baloda, Maveshi Bazar Ward No. 15 Post Baloda, Tahsil Baloda District Janjgir Champa Chhattisgarh,
2. Ku. Bindu D/o Late Asandas Aged About 32 Years Caste Panika R/o Village Baloda, Maveshi Bazar Ward No. 15 Post Baloda, Tahsil Baloda District Janjgir Champa Chhattisgarh,

---- Respondents

For Applicant	: Shri Sanjay Agrawal, Advocate
For Non-applicants	: Shri B.K.Chakraborty, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order On Board

08/08/2019

Present revision has been filed against the order dated 29.06.2018 passed by the Family Court, Janjgir-Champa in MJC No. 184/2017 whereby the learned trial Judge has awarded Rs. 5,000/- as maintenance in favour of non-applicant No.1/mother and dismissed the application on behalf of non-applicant No.2/sister.

Brief facts of the case are that the non-applicants/mother and sister have filed application under Section 125 Cr.P.C. against the applicant on the ground that applicant No.1 is the wife of late Asan Das who was posted as teacher and he died on 06.06.98. Thereafter,

the applicant executed and submitted the affidavit before the Education Department that if he will be given compassionate appointment then he will maintain his mother and sister i.e. the non-applicants herein and in the year 2006-07, the applicant got compassionate appointment and was posted as clerk at Government Middle School, Baloda with monthly salary of Rs. 30,000/- but he did not take care of his mother and sister therefore, they filed application under Section 125 Cr.P.C. before the Family Court.

In his reply, the applicant has denied all the allegations and stated that non-applicant No.1-mother is getting pension of Rs. 9,000/- per month and she is not ready to live with the applicant. He has already paid Rs. 2,00,000/- to his elder brother and sister. He has stated that his wife and children are dependent on him and are residing in rental home, he is ready to keep the non-applicants with him.

After hearing the parties, learned trial court allowed the application of respondents and awarded Rs. 5,000/- per month as maintenance in favour of non-applicant No.1 and rejected the application on behalf of non-applicant No.2. Hence, the present revision.

Counsel for the applicant submits that the impugned order is bad in the eye of law and in the facts and circumstances of the case, the same is liable to be set aside. Learned trial court has completely overlooked the fact that the non-applicant is getting pension of Rs. 9,000/- per month therefore he is able to maintain herself and ordered for grant of Rs. 5,000/- per month to the non-applicant No.1 which is against the economic caliber of the applicant. The provision contained

in Section 125 (1)(d) Cr.P.C. is meant for parents who are unable to maintain himself/herself and are seeking maintenance from their son but in this case respondent No.1 is getting pension and she is not dependent on the applicant. Learned trial court has completely failed to appreciate the fact that there is no sufficient reason for her to live separately from the applicant. Further, learned trial court has failed to consider the documents and statement of the applicant therefore the order impugned dated 29.06.2018 be set aside.

On the other hand, counsel for the respondents supports the impugned order.

Heard counsel for the parties and perused the material available on record.

Learned trial court in para 8 to 27 of the judgment impugned has appreciated the oral and documentary evidence and found that non-applicant No.2 is not entitled for any maintenance under Section 125 (1)(d) Cr.P.C. and therefore rejected the application on her behalf but non-applicant No.1/mother is entitled for maintenance and thus has awarded Rs. 5,000/- per month. After proper appreciation of evidence this court finds no illegality or perversity in the order impugned. There is no error in the impugned judgment and order and it requires no interference. The revision lacks merit and is liable to be dismissed.

Sd/-
(Rajani Dubey)
Judge