

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 944 of 2019**

- Yadunandan Sao S/o Shri Natwar Sao, aged about 56 R/o Near Radhakrishna Mandir, Camp - 1, Bhilai, Tahsil and District Durg (C.G.)

----Petitioner**Versus**

1. Smt. Kunti Devi W/o Yadunandan Sao, aged about 37 years,
2. Ku. Chandani D/o Yadunandan Sao, aged about 15 years.
3. Raj Jayoti D/o Yadunandan Sao, aged about 11 years.
4. Ram Parvej S/o Yadunandan Sao, aged about 10 years.
5. Pratima Kumari D/o Yadunandan Sao, aged about 4 years.
6. Lakshmi D/o Yadunandan Sao, aged about 9 months.

All R/o Near Radhakrishna Mandir, Camp - 1, Bhilai, Tahsil and District Durg (CG)

Minors 2 to 6 are through mother respondent No.1 Smt. Kunti Devi

---- Respondents

For Petitioner	:	Shri Vipin Tiwari, Advocate.
For Respondents	:	Shri Shikhar Bakhtiyar, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****30/09/2019**

1. Heard on admission.
2. Challenge in the present revision filed under Section 19 (4) of the Family Courts Act read with Section 397/401 of the code of Criminal Procedure is to the order dated

12.06.2019 passed by 3rd Additional Principal Judge, Family Court, Durg, in Miscellaneous Criminal Case No.63/2013 whereby the learned trial Court allowing the application of respondents granted Rs.1,000/- to respondent No.1 and Rs.500/- - Rs.500/- to respondents No.3 to 6, totaling Rs.3,000/- per month as maintenance.

3. It is admitted facts before the trial Court that the marriage of applicant was solemnized with respondent No.1 in the year 1984 according to hindu customs and out of wedlock the couple is having 4 daughters namely Ku. Chandani (R-2), Raj Jayoti (R-3), Pratima Kumari (R-5), Lakshmi (R-6) and one son namely Ram Parvej (R-4).
4. The respondent No.-1 wife herein filed an application under Section 125 of Code of Criminal Procedure before the learned Family Court for grant of maintenance of Rs.7,000/- per months from the petitioner/husband on the ground that petitioner/husband herein is not taking care of her children and also not giving money for their livelihood. The petitioner/husband always commits maarpeet with her and tries to get her out of the house. It has been alleged that she is not in a position to maintain herself and her children. The petitioner is a kerosene hawkar and earns Rs.20,000/- per month. Therefore, she may be awarded Rs.7,000/- per month as maintenance.

5. In reply, the petitioner denied all the allegations levelled against him and stated that he is not doing any job, his license of kerosene hawker has been cancelled by the Collector, Durg, which was challenged by him before the Commissioner, Division Durg, District Durg, and the same has been dismissed on 05.11.2015. His daughter Raj Jyoti, respondent No.3, got married and she went to her in-laws house, therefore, respondent No.3 is not at all entitled for maintenance. Further, as he is not earning anything and jobless, the respondent No.1 and respondent Nos. 3 to 6 are not entitled for any maintenance.
6. The learned trial Court, after hearing both the parties and appreciating oral and documentary evidence, allowed the application of respondents and ordered to give Rs. 1,000/- to respondent No.1 and Rs.500/- -Rs.500/- to respondent Nos.3 to 06. Hence, this revision petition filed by the petitioner.
7. Learned counsel for the petitioner submits that the findings of the learned Family Court is perverse, illegal and contrary to facts and circumstance of the case. The respondent No.1/wife has stated that she is residing with the petitioner and earning Rs.200/- per day by running a small business and she herself has admitted that the petitioner is not working and the license of kerosene has

also been cancelled by the Collector in the year 2010, but this fact has not been considered by the learned Family Court and made a legal mistake. He also submits that respondent No.1/wife herself has stated that the marriage of her two daughters namely Ku. Khushbu and Chandani solemnized, and marriage invitation card (Annexure A-3) is the evidence of marriage of respondent No.3 but the learned Family Court has granted maintenance to respondent No.3 which is illegal and arbitrary. He also submits that date of birth of respondent No.4 is 11.03.2001, which is evident from Annexure A-4, and it is clear that respondent No.4 Ram Parvej was a major at the time of passing of the impugned order but the learned Family Court has also granted maintenance to him. It has also been submitted by learned counsel that the respondents are residing with the petitioner in a house together and respondent No.1 is also earning Rs.200/- per day but the learned Family Court has not considered this fact while passing the impugned order. It is next submitted that the petitioner was always ready to fulfill all the demands of the respondents and he did so but still the respondents are not living peacefully with him. The respondents have also filed several cases against the petitioner and he remains full-time busy in his cases for appearance and discussion with his advocates, therefore, nobody is

giving him job. Therefore, the impugned order may kindly be set aside.

8. Learned counsel for respondents supported the impugned order.
9. Heard the learned counsel for the parties and perused the material on record including the impugned order.
10. Before the learned Family Court, respondent No.1 and respondent No.2 examined themselves as AW/1 and AW/2 in support of their application, and the petitioner examined himself as NAW/1, Anwar Ali (NAW/2) and Surendra Singh (NAW/3) and has also filed documents (Ex.D-1 to D-6) in his favour. The learned trial Judge, from para 8 to 16, appreciated the oral and documentary evidence and recorded its finding in its para 17 of the judgment that, though, it has not been established that the petitioner is earning Rs.20,000/- per month but the respondent No.1 has stated that the petitioner gets Rs.500/- per day as commission after selling kerosene oil, this version of respondent has been corroborated by the petitioner. Thus, the learned Family Court has arrived at finding that the petitioner/husband earns income.
11. The learned Family Court, after appreciating the oral and documentary evidence, has rightly decided the application filed under Section 125 of Cr.P.C. in favour of

respondent No.1 and 3 to 6.

12. In view of the above, this Court is of the considered opinion that the order dated 12.06.2019 passed by the Court below being fully justified, do not call for any interference in revision petition.
13. Accordingly, this revision has no substance and it is hereby dismissed at motion stage itself.

Sd/-

(Rajani Dubey)
JUDGE

Vijay