

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 882 of 2018**

Rohit Singh, S/o Shri Narendra Singh, aged about 27 years, R/o 57 C/12, M/1 Harwara, Dhumanganj, Allahabad (Uttar Pradesh) PIN 211011. Presently posted as assistant commandant, B.S.F. Fatekuchera, (Tripura) PIN 79211

---- Applicant**Versus**

1. Smt.Komal Singh, W/o Rohit Singh Aged about 24 years,
2. Sivash Singh, S/o Rohit Singh, Aged about 3 months.

Respondent No.2 is a minor and is represented by his natural guardian (Mother) namely Smt. Komal Singh, W/o Rohit Singh.

Both the respondents are R/o Block-6, 6th Floor, House No. 143, Housing Board, Colony, Kachana Road, Shanker Nagar, Raipur, Revenue & Civil District, Raipur (CG)

----Respondents

For Applicant	: Shri Rishi Sahu, Advocate
For Respondents	: Ms. Deepali Pandey, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****18.7.2019**

1. Heard on admission.
2. This revision is directed against the order dated 29.6.2018, passed by the First Additional Principle Judge, Family Court, Raipur(CG) in Case No. 654/15 (Ex.C.A.No.1354/18), whereby the Judge Family Court has rejected the application filed under Section 70(2) of the Cr.P.C. and issued a warrant of arrest against the applicant.
3. Facts of the case in brief are that the respondents have filed application under Section 125 (3) Cr.P.C. for recovery of the

amount of maintenance granted vide order dated 6.11.2015, passed in Cr. Case No. 657/2014 under Section 125 Cr.P.C. On 29.6.2018 the Family Court has issued a warrant of arrest against the applicant. Hence, this revision.

4. Learned counsel for the applicant submits that the order dated 29.6.2018 is erroneous for the reasons that the applicant is a member of Armed Forces and working in B.S.F. and unless and until a letter is sent to his commandant by the Court, the applicant will not be relieved, therefore, he is unable to appear on each and every date of hearing and for this, he filed application 70(2) Cr.P.C. He submits that the applicant is serving the nation and fighting for the welfare, safety and security of the country. The Court below has failed to see this fact and by rejecting the application under section 70(2) Cr.P.C., issued a warrant of arrest which is illegal and arbitrary in the peculiar facts and circumstances of the case, therefore the order be quashed.
5. On the other hand, learned counsel for the respondents supported the impugned order and submits that Rs.9 lakhs of maintenance amount is due on the applicant which is to be recovered. He is a govt. servant and working as Assistant Commandant in B.S.F. The applicant is not attending the court and he is also not depositing the due amount, therefore, a warrant of arrest has been issued against him.
6. I have heard learned counsel for the parties and gone through the record.

7. It is clear from the order sheets that the matter was fixed for hearing on 29.6.2018 and the applicant did not appear nor his counsel was present before the court, therefore, as he has not paid any amount till date towards maintenance granted as per order dated 6.11.2015 in Cr. Case No.657/2014, the court has ordered for issuance of warrant against the applicant. The court has also directed that if the applicant pays the amount to the respondents, then he may not be arrested. The trial court has already passed an order of maintenance in favour of the respondents and the applicant is duty bound to maintain his wife and children. He is a govt. servant and despite this fact, he is avoiding to pay maintenance to his wife and child, therefore, the order passed by the trial Court is just and proper and it requires no interference by this Court.
8. The revision has no merits. The same is dismissed at the motion stage itself.

Sd/

(Rajani Dubey)
JUDGE