

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1204 of 2019

Dheerendra Kumar Dwivedi S/o L.P. Dwivedi Aged About 37 Years Present, R/o Through Station Master, South East Central Railway, Korba, Tehsil And District- Korba, Chhattisgarh, Permanent R/o H.No. L.I.G. 72, Sardar Vallabh Bhai Patel, Nagar, Jamnipali, P.S. Darri, Tehsil And District- Korba, Chhattisgarh.

---- Applicant

Versus

1. Smt. Manju Dwivedi W/o Shri Dheerendra Dwivedi Aged About 32 Years R/o J. P. Vihar Mangla, H. No. 46, P.S. Civil Lines, Tehsil And District- Bilaspur, Chhattisgarh.
2. Aaradhya Dwivedi Aged About 6 Years Is Repredented By Her Legal Guardian Mother Namely Smt. Manju Dwivedi, W/o Shri Dheerendra Dwivedi, R/o J. P. Vihar Mangla, H. No. 46, P.S. Civil Lines, Tehsil And District- Bilaspur, Chhattisgarh.

---- Respondents

For Applicant	: Mr. Prasoon Agrawal, Advocate.
For the Respondents	: Mr. Ashutosh Shukla, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-12-2019

1. This revision petition has been brought against the order dated 18.7.2019 by which the learned Family Court has not ordered for adjustments of the maintenance amount already paid to respondent No.1 with the maintenance amount which is to be paid to respondent No.2 – Aaradhya Dwivedi. Respondents filed an application under Section 125 of the Cr.P.C. praying for grant of maintenance by the applicant who is husband of respondent No.1 and father of respondent No.2. On the basis of compromise between the parties on 20.2.2013, the Court ordered for paying maintenance of Rs.3,000/- to respondent No.1 and Rs.2,000/- to respondent No.2. Subsequently, an application was filed by both the parties under Section 127 of the Cr.P.C. which has

been decided on 5.10.2017 on the basis of changed circumstances. The change in circumstance noticed by the Court was that respondent No.1 had become capable to maintain herself, therefore, the order granting maintenance to her was set aside. The order granting maintenance to respondent No.2 was maintained and it was further ordered that Rs.2,000/- as monthly maintenance should be paid by the applicant and at the same time Rs.2,000/- as monthly maintenance shall be paid by respondent No.1. This order was challenged by the respondents in Criminal Revision No.1088 of 2017 which has been decided on 1.8.2018. The order of the Family Court setting aside the order granting maintenance in favour of respondent No.1 was upheld. Further, the order for payment of maintenance by respondent No.1 to respondent No.2 was set aside and it was ordered that an amount of Rs.4,000/- shall be paid by the applicant to his daughter i.e. respondent No.2 and this order shall be recorded as effective from 5.10.2017.

2. In the order dated 5.10.2017, learned Family Court while deciding the application under Section 127 of the Cr.P.C. has observed that the applicant has made a prayer for adjustment of the amount already paid to respondent No.1 and it was ordered that on presentation of correct calculation of the amount paid to respondent No.1 the same shall be adjusted with the payment of maintenance which is to be paid to respondent No.2 in future. This part of the order of the Family Court has not been considered or set aside by this Court in Criminal Revision No. 108 of 2017 decided on 1.8.2018. Therefore, it can be said that the order of the Family Court regarding adjustments of the amount paid to respondent No.1 with the amount of maintenance amount to be paid for respondent No.2 is maintained and sustained. There is no further challenge to this order by the respondents' side after disposal of the

revision petition by this High Court, therefore, the order of Family Court regarding adjustment was intended to be complied with by the Family Court, which has not been complied with. As there is nothing specific in the impugned order regarding allowing or rejecting the prayer of the applicant for giving adjustment as mentioned herein-above, therefore, there appears to be no reason to set aside the impugned order, and instead a direction can be given to the Family Court to comply with its own order dated 5.10.2017 passed in MJC Nos. 65 of 2017 and 68 of 2017 in which the prayer of adjustment of the applicant was allowed.

3. With this observation and direction, the revision petition is disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge