

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 1113 of 2018**

- Ashish Gulati, S/o Shri N.L. Gulati, Aged About 44 Years, R/o 25, Sunder Nagar, Supela, Bhilai, District- Durg, Chhattisgarh.

**---- Applicant****Versus**

1. Amit Gulati, S/o Shri Ashish Gulati, Aged About 13 Years, Through Smt. Anshu Gulati (Mother), R/o D-306/5, Tagore Nagar, Raipur, District- Raipur, Chhattisgarh.
2. Harsh Gulati, S/o Shri Ashish Gulati, Aged About 9 Years, Through Smt. Anshu Gulati (Mother), R/o D-306/5, Tagore Nagar, Raipur, District- Raipur, Chhattisgarh.

**---- Respondents**


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| For Applicant   | : Mr. Anchal Kumar Matre, Advocate |
| For Respondents | : Mr. Manoj Paranjpe, Advocate     |

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**Hon'ble Smt. Justice Rajani Dubey****CAV Order****20.09.2019**

1. Heard on Admission.
2. This revision has been filed by the applicant against order dated 06.09.2018 passed by First Additional Principal Judge, Family Court, Raipur (C.G.), in Miscellaneous Criminal MJC No. 183/2016 whereby, the family Court granted Rs. 13,000/- in favour of respondent No. 1 and Rs. 12,000/- in favour of respondent No. 2, total 25,000/- per month as maintenance in favour of respondents.
3. Brief Facts of the case are that respondents filed an application through their mother ( Anshu Gulati) for grant of maintenance under Section 125 of Cr.P.C. on the ground that marriage of respondents' mother and applicant was solemnized on 22.04.2004 and out of

their wedlock, Amit Gulati (respondent No. 1) and Harsh Gulati (respondent No. 2) were born. At present, respondents are living with their mother and applicant earns Rs. 1,20,000/- per month from service and Rs. 2,40,000/- yearly from business, so they demanded Rs. 15,000/- per month as maintenance.

4. The applicant denied all allegations stating that wife of the applicant is a teacher and her salary is Rs. 50,000/- per month. She is residing separately without any sufficient reason so she is well sufficient to maintain her children. Applicant has no job or any business so he is not in a position to give any maintenance to his children. So, application is liable to be dismissed.
5. The family Court after appreciating oral and documentary evidence of both the parties, allowed the application of respondents and granted Rs. 25,000/- per month as maintenance Hence, this revision.
6. Learned counsel for the applicant submits that impugned order dated 06.09.2018 passed by the family Court is very excessive and passed without considering the present financial condition of the applicant. The applicant has already shut down his business in the year 2014, therefore the amount may be decreased and his wife is also working as Government teacher with whom minor children are living. The learned Principal Judge, Family Court, Durg passed order in favour of the applicant in the application filed under Section 9 of Hindu Marriage Act and ordered his wife to live along with the applicant but she has willfully neglected to live with the applicant and deserted him and started living separately for no reason. The family Court has failed to appreciate that the applicant is a person

having no adequate source of income. At present as he is a patient of depression and his wife is a working lady and she is able to maintain herself and her children very easily. Respondents demanded only Rs. 15,000/- per month but the family Court has ordered much more than the prayer and awarded Rs. 25,000/- per month which is beyond capacity of the applicant. The applicant is suffering from depression due to which he is not able to work properly and his financial condition has degraded gravely. Family Court had not evaluated the evidence and material to their rightful prospective. Reliance placed on (2000) 4 SCC 266 (Padmja Sharma Vs. Ratan Lal Sharma) and 2018 SCC OnLine Ker 19772 (Lakshmi Bai Vs. Mohandas).

7. Learned counsel for the respondents supporting the impugned order submits that the family Court was fully justified in passing the impugned order.
8. Heard learned counsel for both the parties and perused the material available on record.
9. It is an admitted fact before the family Court that respondent Nos. 1 & 2 are children and they are living with their mother. The learned family Court from Para 6 to 17 appreciated oral and documentary evidence as (Ext. P/1) and (Ext. P/2) which shows total income of the applicant as Rs. 3,24,000/-, therefore, the learned family Court has properly appreciated oral and documentary evidence and finds that applicant is a man of sufficient means and respondents are his children and awarded Rs. 25,000/- per month as maintenance. This order is based upon proper appreciation of oral and documentary evidence, this Court does not find any irregularity or illegality in the

finding so recorded by the Court below.

10. Accordingly, the revision petition is dismissed at motion stage.

**Sd/-  
(Rajani Dubey)  
Judge**

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