

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.194 of 2020

- Dr. Dharmendra Kumar Parihar S/o Shri Samaru Ram Parihar Aged About 38 Years R/o Green City, Baima Nagoi Road, Bilaspur Chhattisgarh

---- Applicant

Versus

1. Sushma Parihar W/o Dr. Dharmendra Kumar Parihar Aged About 36 Years
2. Vedika Parihar D/o Dr. Dharmendra Kumar Parihar Aged About 6 Years Minor Represented Through Sushma Parihar
3. Geetika Parihar D/o Dr. Dharmendra Kumar Parihar Aged About 3 Years Minor Represented Through Sushma Parihar
(all are r/o Ayodhya Nagar, Ring Road No. 02, Bilaspur, Tahsil And District Bilaspur Chhattisgarh)

---- Non-applicants

For Applicant : Mr. Amit Kumar, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-03-2021

Heard.

1. This Criminal Revision is directed against the order dated 25.01.2020 passed by the Principal Judge, Family Court in M.J.C. No.437 of 2019 granting interim maintenance of Rs.12,000/- per month to each of the respondents No.2 and 3.
2. Learned counsel for the applicant submits that the impugned order is erroneous, the respondents No.2 and 3 are children of age 6 years and 3 years only and, therefore, the interim maintenance granted to them is

very much in the higher side, beyond their needs. Apart from that, respondent No.1 herself is a qualified doctor, who is at present employed in Apollo Hospital, Bilaspur, C.G. Hence, the responsibility of maintaining the children is not of this applicant only. Being capable to maintain the children, respondent No.1 can also share responsibilities. Therefore, this petition may be allowed and the impugned order be set aside and if this Court is not inclined to set aside the impugned order, in that case, the grant of interim maintenance be reduced to Rs.6,000/- per month to each of the respondents No.2 and 3.

3. Notices were issued to the respondents, which have been returned served but there is no appearance and no representation.
4. Considered on the submissions. The applicant himself is a qualified doctor and there is a statement of respondent No.1 in her application under Section 125 of Cr.P.C. that the applicant is drawing monthly salary of Rs.1,20,000/- per month. This statement of the applicant needs consideration that the respondent No.1 is also a working woman and in capacity of qualified doctor and being employed in Apollo Hospital, she is also capable of maintaining the children.
5. Sub-section (1) of Section 125 of Cr.P.C. mentions that "if any person having sufficient means, neglects or refuses to maintain, then he/she shall be liable to pay maintenance to the persons concerned". The mention of word "person" in Sub-section (1) of Section 125 of Cr.P.C. by itself makes it clear that such person can be husband, wife, father or mother. Hence, the responsibility of maintenance, according to this provision, is also upon the mother of the children in case, she has sufficient means to do so. Hence, this argument of the applicant side appears to be sustainable.

6. Applicant is the father of respondents No.2 and 3, therefore, he has the responsibility to maintain them, which cannot be denied and he has to contribute his share in the maintenance of these children. Hence, I am of this view that the order granting interim maintenance to respondents No.2 and 3 cannot be totally set aside, however, the reduction of the interim maintenance amount can be considered. Respondents No.2 and 3 are growing children and the expenses for their needs at present may be less but by the passing of time, the same is likely to increase, hence, the reduction as prayed by the applicant side seems to be too much at the lowest side.
7. After due consideration, this revision petition is allowed in part with modification. The impugned order is modified. The grant of interim maintenance shall be of Rs.10,000/- per month to each of the respondents No.2 and 3 separately and the same shall be payable from the date of the impugned order.
8. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge