

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRR No. 257 of 2020

Amresh Jain S/o Shri C.L. Jain, aged about 40 years currently
residing at Lodge Shri Sai Marg Niwas, Vyapar Vihar, Police
Station Tarbahar, District and Tahsil Bilaspur CG

----Applicant

Versus

1. Smt. Smriti Jain W/o Shri Amresh Jain aged about 39 years
2. Ms. Astha Jain D/o Shri Amresh Jain aged about 12 years
3. Ms. Anchit Jain D/o Shri Amresh Jain, aged about 9 years

Non-applicants No. 2 and 3 minors thus represented by mother
Smt. Smriti Jain, R/o Geetanjali Enclave, Ring Road No. 02.
Quarter No. 405, Police Station Civil Line, Bilaspur, CG

----Non-applicants

For Applicant	: Shri Malay Jain, Adv.
For non-applicants	: Shri Vipin Singh, Adv. on behalf of Smt. Meera Ansari, Adv.

Hon'ble Shri Justice N.K. Chandravanshi
Order on Board

27-9-2021

1. This criminal revision has been preferred by the applicant against the order dated 23-1-2020 passed by the Principal Judge, Family Court, Bilaspur, in M.J.C. 1099/2019, whereby non-applicants No. 1, 2 and 3 were granted interim maintenance to the tune of Rs. 7,000/-, Rs. 4,000/- and Rs. 4,000/- respectively per month.

2. Brief facts of the case are that non-applicant No. 1/wife and applicant/husband are legally wedded to each other. From their wedlock, non-applicants No. 2 and 3 were born. Later on, the applicant/husband deserted the non-applicants, therefore, they filed an application under Section 125 of the Criminal Procedure Code, 1973 (in short, 'Cr.P.C.') stating that they have no source of income, therefore, they may be granted maintenance amount from the applicant. They also filed application for interim maintenance. Learned Court below granted interim maintenance to the non-applicants, as has been mentioned in the opening paragraph. Hence, this revision.

3. Learned counsel for the applicant/husband submits that neither the non-applicants have mentioned any specific income of

the applicant/husband nor they have filed any document before the Court below, whereas the applicant/husband has specifically mentioned in his reply that from cable business, he earns about Rs.20,000/- per month. He has also so many liabilities like payment of installments of house loan etc. He is also paying school fee, tuition fee, commutation expenses of non-applicants, after all these expenses, he is left with petty amount for his own living expenses, despite that, learned Court below has granted Rs. 7,000/- as interim maintenance to wife, whereas she has possessed movable and immovable property acquired by him during the course of 15 years of their marriage. He further submits that learned Court below without mentioning any reason, has granted huge amount of Rs. 15,000/- per month for maintenance of non-applicants which is erroneous and perverse, therefore, the the revision may be allowed.

4. Per contra, learned counsel for the non-applicants supports the impugned order submitting that the applicant/husband runs cable business, from where, he earns handsome monthly income, therefore, the order impugned does not call for any interference of this Court.

5. I have heard learned counsel for the parties and perused the material available on record and the impugned order.

6. During the course of arguments, learned counsel for the applicant fairly submits that both the parties have filed affidavits in support of their application for interim maintenance and its reply respectively.

7. Non-applicants have specifically mentioned in their application under Section 125 of the Cr.P.C. that the husband runs cable network. In revision petition also, applicant/husband has stated that he runs cable business. Although, he has stated that from said work, he earns only Rs. 20,000/- monthly, but he has not filed any document regarding his financial status or any declaration, as has been directed to be filed by both the parties by Hon'ble Supreme Court in the case of **Rajnesh -v Neha and another** [(2021) 2 SCC 324]. During the course of argument, counsel for the applicant submits that the husband filed copy of income tax return

before the Court below, but such document has not been filed before this Court.

8. A perusal of record shows that the husband has business of cable operator and also he is a man of means. Looking to the age and need of non-applicants and especially looking to the non-applicants No. 2 and 3 who are school going children, interim maintenance granted to non-applicants to the tune of Rs. 7,000/-, Rs. 4,000/- and Rs. 4,000/- per month respectively can not be termed as excessive or on higher side. Therefore, I do not feel inclined to interfere in the impugned order. The revision is hereby dismissed.

9. However, learned trial Court is directed to expedite the trial of the case and conclude the same as early as possible preferably within a period of 3 months from the date of receipt/ production of certified copy of this order, subject to cooperation by the parties.

Sd/-

N.K. Chandravanshi
Judge

Pathak/-