

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.255 of 2021

- Amit Rai S/o Shri Ashwani Kumar Rai Aged About 40 Years Resident Of Ward No. 57, Harinagar 490, 29/4 Katulboard S.A.F. Line Bhilai, Tehsil And District Durg Chhattisgarh

---- Petitioners

Versus

1. Smt. Renuka Rai W/o Shri Amit Rai Aged About 34 Years
2. Shayuri Rai D/o Shri Amit Rai Aged About 8 Years (Minor And Therefore Represented By Mother)
3. Aniraf Rai S/o Amit Rai Aged About 3 Years (Minor And Therefore Represented By Mother)

(All are resident Of Piprauda Tehsil Abhanpur Development Block Abhanpur, Police Station Gobranavapara, District Raipur Chhattisgarh)

---- Respondents

For Petitioner : Mr. Chetan Singh Chauhan on behalf of Mr. Ashish Surana, Advocate.

For respondents : None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26/10/2021

Heard.

1. This petition has been brought being aggrieved by the order dated 16.03.2020, passed by the First Additional Principal Judge, Family Court, Raipur, C.G. granting interim maintenance of Rs.2000/- to applicant No.1, Rs.1500/- to applicant No.2 and Rs.1000/- to applicant

No.3.

2. It is submitted by the learned counsel for the petitioner that the petitioner is an employee in a private concern drawing salary of Rs.9,154/- per month only. The petitioner is already making payment of Rs.4000/- per month to the respondents vide order dated 09.12.2019 passed in Miscellaneous Criminal Case No.920 of 2019, under the provisions of Domestic Violence Act. It is submitted that in the matter of grant of interim maintenance, the guidelines laid down by the Supreme Court in the case of Rajnish Vs. Neha & Anr. reported in A.I.R. 2021 Supreme Court 569 has to be specifically followed, in which it is held that in the claim of maintenance, the cause of overlapping jurisdiction under different enactments, the applicant is bound to disclose the previous maintenance proceedings and the order passed therein. In the present case, the respondents have clearly suppressed the order passed in their favour by the Court under the domestic violence case, therefore, the impugned order is not sustainable.
3. The respondents are not represented.
4. Considered on the submissions. After perusal of the documents filed along with the petition, I am of this view that it is mentioned in the impugned order that the petitioner has made submissions regarding grant of interim maintenance to the respondent as ordered in the case under Domestic Violence Act. In the impugned order, it is also mentioned that the respondent has without filing an affidavit made a statement that the income of the petitioner is Rs.1,70,000/- per month, this is her statement made in the application under Section 125 of Cr.P.C. which is supported with affidavit of the respondent No.01. The date on which this order was passed, the judgment in the case of Rajnish Vs. Neha (Supra) was not delivered. The judgment in the case

of Rajnish Vs. Neha (Supra) has been delivered on 04.11.2020.

Therefore, following the direction issued in that case was impractical.

5. After overall consideration of the facts and circumstances and the submissions made, I am of this view that no error has been committed in the passing of the impugned order. Hence, the petition is dismissed and disposed off.
6. Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika