



2025:CGHC:38882

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRR No. 466 of 2023**

Mahendra Kumar Thakur S/o Dayalu Ram Thakur Aged About 33 Years
R/o Village - Tekapar, Tehsil And District - Balod (Chhattisgarh)

... Applicant(s)**versus**

Smt. Premlata Thakur W/o Mahendra Kumar Thakur Aged About 28 Years
Presently Residing At - Village Bagdai, Tehsil - Gurur, District - Balod
(Chhattisgarh)

... Non-applicant(s)

For Applicant : Ms. Jigyasa Singh, Advocate.

For Non-applicant : Mr. Aman Tamrakar, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Order on Board****05.08.2025**

1. By way of this revision, the applicant has prayed for following relief:

"It is therefore, most humbly prayed that the judgment dated 01.03.2023 passed by Judge, Family Court, Balod, passed in Miscellaneous Criminal Case No. 31/2023 be quashed and set aside, in the interest of justice. This Hon'ble Court may kindly be pleased to pass any other order as it may deem fit, in the interest of justice."

2. Brief facts of the case are that the applicant and the non-applicant are husband and wife and were wedded on 14.05.2011 as per



traditional customs and rituals. Thereafter, a girl child, Mansi Thakur was born out of their wedlock. An application under Section 125 of the Code of Criminal Procedure, 1973 was preferred by the non-applicant/wife on the ground that immediately after the marriage, the applicant and his family members started harassing and abusing the non-applicant and demanded dowry. The applicant has made allegations against the wife of having illicit affairs and upon the suspicion of her having extra marital affair, has harassed her physically and mentally. In the month of August, 2020, the father of the non-applicant came to her matrimonial house to resolve the dispute amongst the non-applicant/wife, applicant & his family members. However, the differences couldn't be resolved between the parties and thereafter, the non-applicant left her matrimonial house and has started living with her parents in Village Bagdai, Gurur, District Balod since August, 2020. The non-applicant wife also filed a complaint against the applicant and his family alleging physical and mental harassment before the Women Cell, Balod on 18.11.2020 and during the counseling the applicant has refused to live with his wife. The non-applicant filed an application for grant of maintenance of Rs. 30,000/- per month on 14.01.2021.

3. The applicant filed a reply to the application filed by the non-applicant under Section 125 Code of Criminal Procedure, 1973 denying the averments of the non-applicant. The applicant herein specifically pleaded that the parties have obtained separation certificate from Akhil Bhartiya Halba, Halbi Adiasi, Samaj Block, Balod and the upon mutual consent between the parties, marriage was dissolved and



therefore the applicant is not liable to provide for maintenance of the respondent wife. The chairman of Akhil Bhartiya Halba, Halbi Adiasi, Samaj Block, Balod recorded his statement on affidavit under Order 18 Rule 04 of Code of Civil Procedure, 1908 and has categorically stated the separation certificate was issued for dissolution of marriage between the parties upon mutual consent.

4. The learned Family Court concerned after considering the pleadings and upon appreciation of the facts and evidence placed on record, partly allowed the application filed under Section 125 of Cr.P.C. whereby it was directed the applicant to pay maintenance amount to the tune of Rs. 8000/- per month to the non-applicant as maintenance and further ordered that the earlier interim maintenance which has been awarded shall be adjusted in the final maintenance amount. Hence this revision.
5. Learned counsel for the applicant submits that the learned Family Court has without ascertaining the income of the applicant passed order of maintenance which is prima facie bad in law. The affidavit as required to be filed in the light of the judgment of Rajneesh v. Neha [MANU/SC/0833/2020] has not been filed. The learned Family Court has failed to ascertain the salary of the applicant and without attributing any reasons has awarded the non-applicant wife a sum of Rs. 8,000/- as maintenance which is unjust to the applicant and is in violation of the well settled principles of law. He further submits that the daughter of the applicant and non-applicant, Mansi Thakur resides with the applicant and therefore the applicant is responsible for all the expenses including her education. Moreover, the father



and mother of the applicant are also dependent on him and the said fact has not been considered by the learned Family Court while ascertaining the deposition of the maintenance amount. The non-applicant-wife has failed to establish that the applicant and his family members have physically and mentally assaulted her or committed any form of cruelty against her. The non-applicant-wife has made vague allegations against the applicant to settle score. He further submits that the learned Family Court has passed an order and directed the applicant to pay maintenance to the tune of Rs. 8,000/- per month to the non-applicant, without considering the facts and circumstances and only on the ground that the wife is living separately due to sufficient reasons. He has also failed to consider that the marriage of the parties has been dissolved by mutual consent and therefore the non-applicant wife is not eligible for obtaining maintenance under section 125 Cr.P.C. Thus, he prays that the impugned order is illegal and perverse and is liable to be set-aside.

6. On the other hand, learned counsel for the non-applicant opposes the submissions made by the learned counsel for the applicant and submits that the learned Family Court after considering all the documents and evidence adduced by the parties has rightly passed the order, in which no interference is called for.
7. I have heard learned counsel for the applicant, perused the impugned order and other documents appended with revision.
8. From perusal of the impugned order, it transpires that an application filed under Section 125 of Cr.P.C. before the learned Family Court,



sought maintenance amount from the applicant to the tune of Rs.

30,000/- per month. Upon appreciation of the facts, evidence and overall circumstances, the learned Family Court has partly allowed the application whereby directed the applicant/husband to pay Rs. 8000/- per month as maintenance to the Non-applicant/wife. While passing the said order, keeping in view the social status of both the parties, their earning capacity as well as prevailing cost of living, number of dependents on them and the said expenses granted as maintenance to the non-applicant, which cannot be said to be shockingly on higher side.

9. Considering the submissions advanced by learned counsel for the applicant, perusing the documents appended with revision and finding recorded by learned Family Court, I am of the considered view that learned Family Court has not committed any illegality or irregularity in the impugned order warranting interference by this Court.
10. Accordingly, the revision being devoid of merit is liable to be and is hereby **dismissed**.
11. The Registrar (Judicial) is directed to transmit the record of the present case to the concerned trial Court within a week from today for necessary compliance and followup action, if any.

Sd/-
(Ramesh Sinha)
Chief Justice