

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.714 of 2013**

Smt.Asha Sahu, wife of Shri Sumit Sahu, aged about 25 years,
residence of C/o Balwant Sahu, Father, Ward No.57, Katulbod,
District Durg, Chhattisgarh

---Applicant**Versus**

1. Sumit Kumar Sahu, son of Bhusan Lal Sahu, residence of village Umarpoti, P.S. Utai, District Durg, Chhattisgarh
2. Bhusan Lal Sahu, son of Late Ramadhin Sahu, aged about 54 years, residence of village Umarpoti, P.S. Utai, District Durg, Chhattisgarh

---Respondents**And****Criminal Revision No.773 of 2013**

Sumit Kumar Sahu, son of Bhushan Lal Sahu, aged about 30 years, R/o.
Village Umarpoti, P.S. Utai, Civil and Revenue District Durg (CG)

---Applicant**Versus**

Smt.Asha Sahu, wife of Sumit Kumar Sahu, aged about 25 years, R/o.
C/o. Balwant Sahu, Ward No.57, Katulbod, P.S. Katulbod, District Durg
(CG)

---Respondent

For Applicant	:	Mr. O.P.Sahu, Advocate in Cr.R.No.714/2013
For Respondents	:	Mr. Uttam Pandey, Advocate in Cr.R.No.714/2013 &
For Applicant	:	Mr. Uttam Pandey, Advocate in Cr.R.No.773/2013
For Respondent	:	Mr. O.P.Sahu, Advocate in Cr.R.No.773/2013

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****17/09/2015**

1. In an application filed by wife of Shri Sumit Sahu-Smt.Asha Sahu

under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called 'the Act of 2005') alleging domestic violence within the meaning of Section 3 (a) and (b) of the Act of 2005, the Chief Judicial Magistrate partly allowed the application, prohibited husband-Sumit Kumar Sahu from continuing with domestic violence and granted ₹3,000/- per month towards house rent under Section 19(f) of the Act of 2005 and also directed for return of *Stridhan* and ₹20,000/- as medical expenses under Section 20(b) of the Act of 2005 and ₹10,000/- per month towards maintenance and ₹20,000/- towards compensation under Section 20 (c) of the Act of 2005.

2. Both husband and wife preferred appeals before the Second Additional Sessions Judge (F.T.C.), Durg under Section 29 of the Act of 2005. Appeal preferred by wife was dismissed, whereas appeal preferred by husband was partly allowed, by which house rent amount of ₹3,000/- per month was reduced to ₹1,500/- per month and order of return of *Stridhan* was set aside, maintenance amount was reduced from ₹10,000/- to ₹2,500/- per month, however, amount of medical expenses and compensation amount was not interfered with.

3. Mr.O.P.Sahu, learned counsel appearing for wife-Smt.Asha Sahu would submit that order passed by the appellate Court so far as reducing the amount of house rent and maintenance, setting aside the order directing *Stridhan* is bad and unsustainable in law as wife is residing at Katulbod, Durg and it is difficult to get accommodation at ₹1,500/- per month and amount of maintenance of ₹2,500/- is not fair and reasonable consequence with the standard of living to which wife is entitled, therefore, the order of the appellate Court be set aside and order of the trial Court in

toto be restored.

4. Mr.Uttam Pandey, learned counsel appearing for husband-Sumit Kumar Sahu would submit that no domestic violence has been taken place with wife and order granting ₹1,500/- per month as rent, ₹2,500/- as maintenance and other amount towards medical and expenses also be set aside. He has brought to notice of this Court that the Family Court has granted an amount of maintenance of ₹5,000/- per month to wife by the order dated 16.6.2015 and maintenance so granted has also been challenged by husband as well as wife and as such, order impugned deserves to be set aside.

5. I have heard learned counsel for the parties and perused the record with utmost circumspection.

6. The question for consideration would be whether the act of husband-Sumit Sahu would fall within the mischief of Section 3 of the Act of 2005. It is not in dispute that offence under Section 498A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act has been registered against Shri Sahu and he is facing trial for the aforesaid offence for demand of dowry and cruelty. The trial Court after appreciating the order and documentary evidence available on record came to the specific conclusion that conduct of applicant-husband would fall within the meaning of “domestic violence” as defined in Section 3(b) of the Act of 2005. The finding so recorded by the trial Court duly affirmed by appeal Court is neither so perverse nor contrary to the record warranting interference by this Court in exercise of revisional jurisdiction, as such, I do not find any illegality in the concurrent finding so recorded and thus, the impugned order is hereby affirmed to that extent.

7. This brings me to the next question whether the reduction of house rent by appeal Court from ₹3,000/- to ₹1,500/- is justified. The non-applicant-wife is staying at ward No.57 at Durg; which is District Head Quarter of District Durg. Taking note of rise in rent in these days, it is difficult to have an accommodation with reasonable facility to live with dignity in a city like Durg and that too for a woman on a meager rent of ₹1,500/- per month, thus the order in this regard passed by appeal Court is set-aside and that of trial Court who has granted ₹3,000/- per month as house rent is restored.

8. The trial Court has granted monthly maintenance of ₹10,000/-, which has been reduced to ₹2,500/- per month. Taking note of cost of living, need for food, clothing, medical need and other related need, the amount of ₹2,500/- per month cannot be said to be just, fair and reasonable amount for maintenance of the non-applicant-wife and it is accordingly quantified at ₹7,500/- per month, which wife is entitled w.e.f. 31.8.2013.

9. This Court in the matter of **Rejesh Kurre v. Sufurabai & others**¹, relying upon the provisions contained in Section 20(1) (d) of the Act of 2005 has already been held that the words of provisions of the Act of 2005 are plain, clear and unambiguous. The provisions are independent and are in addition to any other remedy available to the aggrieved party under any legal proceeding before Civil Court, Criminal Court or Family Court. The provisions are not dependant upon Section 125 of the CrPC or any other provisions of the Family Courts Act, 1984. Thus, the submission raised in this behalf by learned counsel for non-applicant/husband is rejected.

¹12009 (1) MPHT37(CG)

10. So far as the *Shridhan* is concerned, the non-applicant-wife is free to establish her claim before the jurisdictional civil Court in accordance with law and the finding recorded by two Courts below will not come in her way. The amount of medical expenses and compensation granted by learned Chief Magistrate as affirmed by appellate Court is just, fair and reasonable and requires no interference. It is hereby maintained.

11. Consequently, the criminal revisions are disposed off in the terms indicated hereinabove. No order as to cost (s).

12. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-