

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 775 of 2015

1. Prince Nagpal, S/o Suresh Nagpal, aged about 30 years, R/o Shriram Nagar, Phase-II, T/4, Raipur, Post Office - Raipur, Police Station - Pandri, Tahsil & District - Raipur (Chhattisgarh) (Non-Applicant).

---- Applicant

Versus

1. Smt. Shikha Nagpal, D/o Rajkamal Sharma, aged about 29 years, W/o Prince Nagpal, R/o Risaipara, Dhamtari, Post Office - Dhamtari, Police Station - Dhamtari, Tahsil & District - Dhamtari (Chhattisgarh) (Applicant).

---- Respondent

For Applicant:
Advocate.

Shri Shivendu Pandya,

For Respondent:

Shri J.K. Gupta, Advocate

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

04/12/2015

1. Heard on I.A. No.1/2015, application for condonation of delay in preferring this revision as the same has been preferred after 14 days of the period of limitation.
2. For the reasons assigned in the application, the same is allowed. Delay in filing this revision is condoned.
3. With the consent of both the parties, the revision is heard finally.
4. Challenge in this revision is to the order dated 25.4.2015 passed by the Family Court, Dhamtari in Special Judicial Case No.47/2014 directing the applicant herein to pay Rs.5,000/- per month as maintenance to the respondent herein.
5. Brief facts of the case are that on 17.6.2014 an application under Section 125 of Cr.P.C. was filed by the respondent herein before the Court below seeking maintenance of Rs.50,000/- contending, inter alia, that she

married the respondent herein on 28.11.2013 at Hotel Babylon, Raipur and in the marriage sufficient dowry was given to the applicant. However, after some time of the marriage, the respondent and his family members have started treating her with cruelty for the demand of dowry. The respondent is habitual drunkard and used to harass & beat her after consuming liquor. It has further been stated in the application that her financial condition is not as such where she can maintain herself, whereas the applicant-husband is Proprietor of a transport company and earns about Rs.2 Lac per month and therefore she is entitled to receive maintenance at the rate of Rs.50,000/- per month from the applicant-husband.

6. The applicant herein filed reply to the said application disputing all the averments pertaining to demand of dowry and harassment etc. It has been stated in the reply that without any sufficient reason the respondent-wife is residing separately and as such she is not entitled for any maintenance.
7. The Court below after hearing the parties in the matter and considering the material brought on record by both the parties, partly allowed the application filed under Section 125 of Cr.P.C. and awarded maintenance of Rs.5,000/- per month to the respondent-wife.
8. Counsel for the applicant submits that the Court below failed to take into consideration the fact that the respondent-wife is living separately without any sufficient reason and therefore she is not entitled for any compensation much less the maintenance granted to her. He further submits that the respondent herself is earning by practising as Physiotherapist and thus it cannot be said that she is not in a position to maintain herself.
9. On the other hand, counsel for the respondent supports the impugned order.
10. Heard counsel for the parties and perused the material on record.
11. While determining the quantum of maintenance, the Court has to consider the status of parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary

payments or deductions. The amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate.

12. In the instant case, the Court below considering the financial status of the applicant, which is apparent from the fact that marriage was solemnized in a renowned hotel of the city of Raipur i.e. Hotel Babylon, directed him to pay Rs.5,000/- per month as maintenance to the respondent-wife, which appears to be just and proper in view of the fact that as per law, the wife is entitled to lead a life in the similar manner as she would have lived in the house of her husband.

13. Consequently, I do not find any reason to interfere with the order impugned. The revision being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
(Pritinker Diwaker)
Judge

roshan/-