

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 576 of 2011

1. Sangeeta Gupta, Wife of Devendra Gupta, Aged about 23 years,
2. Ku. Aditi Gupta D/o Devendra Gupta, Aged about 4 years,
(Minor) Through Natural Guardian Mother Applicant Smt.
Sangeeta Gupta,

Both are R/o Shop No. 34, Shubhash Market, Zone-2, Khursipar
Bhilai, Distt.-Durg, (C.G.)

---- Applicants

Versus

- Devendra Gupta S/o Ramswaroop Gupta, Aged about 30 years,
R/o Gupta Kirana Stores (Beside Karuna Hospital and Chaodhari
Hotel), Nandani Road, Power House, Bhilai, Distt.-Durg (C.G.)

---- Non-applicant

For Applicants : Shri Praveen Dhurandhar,
Advocate
For the Respondent : Shri Vipin Tiwari, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment on Board

12/08/2016

1. The applicant Sangeeta Gupta along with her daughter filed an application for grant of maintenance before the Family Court claiming maintenance as the non-applicant (husband of applicant No.1 & father of applicant No.2) is neglecting them to maintain and they have no source of earning for their livelihood.
2. The application was opposed by non-applicant herein.
3. The Family Court, Durg vide its impugned order dated 15-09-2011, granted maintenance of Rs.800/- per month to the applicant

No.2 Ku. Aditi Gupta whereas rejected the application of applicant No.1 holding that she is residing separately without any sufficient cause, against which this revision petition has been filed.

4. Mr. Praveen Dhurandhar, learned counsel appearing for the applicants would submit that on the report of applicant No.1, offence under Section 498-A of IPC. has been registered against the non-applicant husband and his family members vide Ex. D-9 (C) and as such there is sufficient reason to stay separately and she is entitled for maintenance as she has no source of earning.

5. On the other hand, Mr. Vipin Tiwari, learned counsel appearing for the non-applicant would support the impugned order.

6. I have heard learned counsel for the parties and perused the record of the case.

7. The relationship of wife and husband between the applicant No.1 and non-applicant is not in dispute. Applicant No.2 is the daughter out of their wed-lock is also not in dispute. The Family Court has granted Rs.800/- per month to applicant No.2 who is minor daughter which is said to be insufficient. She (Applicant No.2) is studying in Class-I at Bhilai, District Durg. Looking to her need for cloth, food, schooling & maintenance, Rs.800/- is on the lower side and it be enhanced to Rs.1500/- from the date of passing of the order of the Family Court. However, Applicant No.1/

wife has been refused maintenance by Family Court on the ground that she is living separately without sufficient cause. It is not in dispute that applicant No.1 has lodged report under Section 498-A of IPC and the non-applicant is facing trial for the said offence. It is a case of applicant No.1 that on account of said fact apprehending ill- treatment, she is unable to stay with the non-applicant. Since the report has been lodged under Section 498-A of IPC against the non-applicant, the apprehension of applicant No.1 is well founded, it cannot be held that applicant No.1 is residing separately without sufficient cause from non-applicant. It is further case of applicant No.1 that she is not working woman and she is unable to maintain herself. Taking in to the consideration facts and circumstances of the case, status of applicant No.1 as wife of non-applicant is not in dispute. Looking to her need for food, clothing, maintenance and medical, applicant No.1 is awarded an Rs.1500/- towards maintenance from the date of passing of the order of family Court i.e. 15.09.2011. The arrears of the amounts shall be deposited by non-applicant in the name of applicants.

8. In the result, the revision is allowed in part and it is directed that the non-applicant will pay Rs.1500/- per month as monthly maintenance to applicant No.1 from the date of order i.e. 15-09-2011. The arrears will be deposited within four weeks from today. Likewise, the maintenance of amount be also paid to applicant

No.2 which has been enhanced from Rs.800/- to 1500/- and the enhanced amount be deposited within four weeks. Thereafter, the deposited amount be disbursed to the applicants.

9. No order as to cost(s)

Sd/-
(Sanjay K. Agrawal)
JUDGE

Kvr