

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 157 OF 2016

Dipak Verma, S/o Dr. Prasad Verma @ D.P. Verma, aged about 32 years,
R/o Subhash Ward, Bhatapara, P.S. Bhatapara, District Balodabazar
(C.G.)

... Applicant

Versus

Smt. Rashmi Verma, W/o Dipak Verma, aged about 28 years, R/o C/o
Krishna Kumar Dhurandhar, Vasundhara Nagar, South 19/11, Bhilai-3,
Tahsil Patan, District Durg (C.G.)

... Non-applicant

CRIMINAL REVISION NO. 320 OF 2016

Smt. Rashmi Verma, W/o Deepak Verma, aged about 28 years, R/o
through : Krishna Kumar Dhurandhar, Vasundhara Nagar, South 19/11,
Bhilai-03, Tahsil Patan, District Durg (C.G.)

... Applicant

Versus

Deepak Verma, S/o Dr. Prasad Verma @ D.P. Verma, aged about 32
years, R/o Subhash Ward, Bhatapara, P.S. Bhatapara, District
Balodabazar-Bhatapara (C.G.)

... Non-applicant

Mr. B. Madhav Rao, Advocate, for the Applicant in Criminal Revision No.
157 of 2016 and for Non-applicant in Criminal Revision No. 320 of 2016.

Mr. Jitendra Gupta, Advocate, for the Applicant in Criminal Revision No.
320 of 2016 and for Non-applicant in Criminal Revision No. 157 of 2016.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/07/2016

1. Challenge in the present Criminal Revisions is to the same order dated 14.10.2015 passed by the Family Court, Durg in Misc. Criminal Case No. 213 of 2015.
2. For the sake of convenience, the Applicant in Criminal Revision No. 157 of 2016 who is the Non-applicant in Criminal Revision No. 320 of 2016 shall henceforth be referred to as the 'husband'. Similarly, the Applicant in Criminal Revision No. 320 of 2016 who is the Non-applicant in Criminal Revision No. 157 of 2016 shall henceforth be referred to as the 'wife'.

3. Since both these Criminal Revisions have been filed challenging the same order dated 14.10.2015, the same are being decided by this common order as the dispute is between the same parties and the impugned order is also the same.

4. Criminal Revision No. 157 of 2016 is a revision referred by the husband challenging the said impugned order granting maintenance of Rs.10,000/- per month to the wife. Criminal Revision No. 320 of 2016 has been preferred by the wife challenging the same order and seeking enhancing of the amount of maintenance awarded by the Court below.

5. Facts relevant for the purpose of adjudicating these two revision petitions are that both the husband, Deepak Verma and the wife, Rashmi Verma entered into the marriage on 11.5.2011 as per the Hindu rites and customs. However, soon thereafter it is said that the relationships between the two got strained and it is the allegation of the husband that the wife had started misbehaving with him and for petty issues she used to start quarreling with him and would also start fighting with him. On the contrary, it is the contention of the wife that just about after one year from the marriage, the husband started ill-treating her and used to harass and torture her on demand of dowry and would also assault her at regular intervals without any reason and would always pester her parents to provide sufficient dowry.

6. According to the wife, she was working at the Ambuja Cement Plant at Bhatapara and was getting around Rs. 25,000/- but he put pressure upon her to pay Rs.20,000/- and was taking away that money from the wife. It is also stated by the wife that the husband in between had also taken away all the ornaments which the wife had brought at the time of marriage and had kept it with him. It is further alleged that the husband used to frequently visit her wife at her parental home and would press her

seeking for more dowry and would harass the wife and family members at her parental home. As per the wife, the husband is working at Durgapur Steel Plant and is drawing a handsome salary yet he was pestering the wife for getting more money from her parental home by way of dowry.

7. Meanwhile, the wife initiated a proceeding under Section 125 CrPC seeking for grant of maintenance from the husband so that she can sustain herself. According to wife, she did not have any source of income and therefore for the sake of survival and sustenance she needed some amount as maintenance from the husband and accordingly projecting the husband to be a person with a handsome salary raised a claim for at-least Rs.20,000/- per month so as to maintain the minimum decent standard of living.

8. The said case was registered as Misc. Criminal Case No. 213 of 2015 and notice was issued to the husband who in turn appeared before the Court below and submitted his reply categorically denying the entire averments and allegations made by the wife and further he had alleged that the entire claim of the wife itself was not sustainable for the simple reason that she has also in between engaged herself in one of the research work at National Institute of Technology, Durgapur as a Research Scholar and she was getting a decent source of income sufficient to maintain herself and therefore her claim under Section 125 CrPC deserves to be rejected.

9. However, subsequently on account of a default on the part of the husband he was proceeded ex-parte and the learned Court below finally vide impugned order dated 14.10.2015 allowed the application of the wife seeking for maintenance amount, by awarding an amount of Rs.10,000/- per month payable to the wife by the husband.

10. Subsequently, after the husband came to know about the passing of the ex-parte order by the Court below, he has preferred a revision (Criminal Revision No. 157 of 2016) before this Court assailing the quantum as well as the entitlement of the wife. The wife at the same time has also challenged the same order by way of a revision petition (Criminal Revision No. 320 of 2016) before this Court seeking for enhancement of the maintenance amount of Rs.10,000/- which has been awarded by the Court below.

11. Learned Counsel appearing for the husband assailing the impugned order submits that it is case where the wife is not entitled for any maintenance amount firstly for the reason that she has sufficient source of income and secondly that during the course of pleadings in the proceeding under Section 125 CrPC she did not disclose the fact of her getting a scholarship from the National Institute of Technology, Durgapur to the tune of Rs. 30,000/- per month.

12. According to the Counsel for the husband on account of this act on the part of the wife in not disclosing the material fact from the Court more particularly the source of income that she had from the scholarship, the entire proceedings deserve to be quashed and it should be held that the wife was not entitled for any amount of maintenance.

13. Learned Counsel for the wife however opposing the petition submitted that in the given facts and circumstances of the case more particularly the fact that the husband was working at Durgapur and that he was getting a salary of more than Rs. 65,000/- per month, the Court below ought to have appreciated the standard of living which the husband was maintaining with the strong salary package that he had and being his wife she too was entitled to maintain a decent standard of life and therefore considering his salary to be more than Rs. 65,000/- the amount of

maintenance awarded by the Court below was too meager and it deserves to be enhanced.

14. Having heard the rival contentions put forth on behalf of the disputing parties what is an admitted position is that the marriage between the two took place in the year 2011 and right from 2013 onwards the relationship between the two got strained somewhere in the same year they had started living separately. Another aspect which has to be borne in mind is the fact that the husband does not dispute the fact that he is employed at Durgapur Steel Plant and it is also not disputed that the husband was not getting a handsome salary. But what is to be considered seriously is the fact that the wife in her entire petition seeking for maintenance from the husband, except for making a statement that she does not have any source of income and therefore she has been compelled to file the maintenance proceeding against the husband, has not disclosed to the Court about the scholarship of Rs.30,000/- that she was getting from the National Institute of Technology, Durgapur. This by any stretch of imagination can be clearly said to be a material suppression of fact by the wife both in the pleadings as well as in the evidence that she has adduced before the Court below. The suppression of fact becomes more serious when the wife does not either accept the same or the fact regarding her scholarship when in the written statement itself the husband had disclosed this fact that she was working at National Institute of Technology, Durgapur and was getting a scholarship of Rs.30,000/- per month. If the wife would have disclosed this aspect to the Court below in the course of her pleadings and evidence, this Court is sure that the Court below would not have passed an order what it has passed vide the impugned order.

15. The fact that she is getting scholarship of Rs.30,000/- per month is evident from the information provided by the National Institute of Technology, Durgapur vide its letter dated 3.2.2016 to the husband under the provisions of Right to Information Act. Thus, the act on the part of the wife in not disclosing the actual facts so far as her employment and source of income is concerned, the case of the wife deserves to be and should be rejected.

16. On a specific query being put to the Counsel for the wife, Shri Gupta, submits that it is not a regular employment that the wife has got for her to have disclosed it to the Court. As is evident from the said report it is only a scholarship and which cannot be equated with a regular pay scale and therefore not disclosing of this fact to the Court would not make much of a difference.

17. The Counsel for the wife further submits that this obtaining the scholarship of Rs.30,000/- per month did not exist at the time of the filing of the claim application. Secondly, the scholarship being a temporary sort of contract it would not really in fact be a suppression of fact from the Court.

18. Having considered the rival contentions of either side, what is an admitted position is that the fact that the wife was getting scholarship from the National Institute of Technology, Durgapur that too of an amount of Rs.30,000/- per month, the same cannot be said to be a temporary source of income as long as it is an income of the wife. Rs.30,000/- is not a small amount and is definitely a good amount for any normal human being to maintain a decent standard of life. Even if it is a development which had taken place subsequent to the filing of the application under Section 125 CrPC even then the said fact ought to have been disclosed the Court while the evidence of the wife was being recorded, and suppressing this fact from the Court at that relevant point of time is not appreciable on the part

of the wife. The fact that she got a scholarship of Rs.30,000/- also gives an indication of her capabilities and her competence and for drawing a safe inference of the wife being qualified, able and a competent lady capable enough of sustaining herself well.

19. In the given factual background of the case as narrated in the preceding paragraphs, this Court is of the opinion that for want of these material facts from the Court below, the conclusion arrived at by the Court below cannot be said to be based on proper facts. Definitely if the fact of the wife getting a scholarship of Rs.30,000/- per month would had been established before the Court below then the possibility of either rejection of the claim application or the quantum of maintenance amount also being reduced substantially, cannot be ruled out. Thus, in the opinion of this Court, the matter needs to be remitted back to the Court below so that either party can lead sufficient evidence to establish their respective source of income, particularly the wife so far as her source of income is concerned.

20. As a consequence, the impugned order dated 14.10.2015 passed by the Court below is hereby set aside/quashed and the matter is remitted back to the Court below for passing a fresh order after again recording the evidence of the parties, particularly so far as the wife getting a scholarship of Rs.30,000/- per month and thereafter the Court below may pass a fresh order. It is made clear that this Court has not expressed any opinion on the merits of the case. The Court below shall be at liberty to pass an order independently in accordance with law on its own merit without getting carried away by any observation made by this Court while disposing the present Criminal Revisions.

21. It is with these observations, the Criminal Revision preferred by the husband stands partly allowed and the Criminal Revision preferred by the wife stands rejected.

Sd/-
(P. Sam Koshy)
Judge

/sharad/