

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1012 of 2016**

Rajesh Singhanian S/o Pawan Singhanian Aged About 30 Years R/o H. No. 557, Ward No.1, Patel Para, Korba, Tahsil & District Korba, Chhattisgarh.

---- **Petitioner**

Versus

1. Smt. Sapna Singhanian W/o Rajesh Singhanian Aged About 30 Years R/o Maldhakka Road, Raigarh, District Raigarh, Chhattisgarh.
2. Pawan Singhanian S/o Ramgopal Singhanian Aged About 55 Years R/o Anand Mewa Bhandar, Darri Road, Korba, Tahsil & District Korba, Chhattisgarh.
3. Smt. Saroj Singhanian W/o Pawan Singhanian Aged About 50 Years R/o Anand Mewa Bhandar, Darri Road, Korba, Tahsil & District Korba, Chhattisgarh.
4. Rakesh Singhanian S/o Pawan Singhanian Aged About 28 Years R/o Anand Mewa Bhandar, Darri Road, Korba, Tahsil & District Korba, Chhattisgarh.
5. Anand Singhanian S/o Pawan Singhanian Aged About 25 Years R/o Anand Mewa Bhandar, Darri Road, Korba, Tahsil & District Korba, Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Ravindra Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board**

04/11/2016

1. The present revision has been preferred under Section 397 read with Section 401 CrPC assailing the order dated 30.09.2016 passed by the First Additional Sessions Judge, Raigarh in Criminal Appeal No.87 of 2016. By way of the said impugned order, the Sessions Judge has modified the order dated 25.06.2016 passed by the JMFC, Raigarh, in Criminal Case No.498/2015 under Section 23 of the Domestic Violence Act.
2. The Magistrate vide its order dated 25.06.2015 had granted interim maintenance of an amount of Rs. 1500/- to the respondent No.1 and Rs. 800/- to her minor son respectively per month. In addition, an amount of Rs.

1000/- was also granted towards expenses for the accommodation of the respondent wife.

3. The respondent wife had subsequently preferred an appeal against granting of interim maintenance seeking of enhancement of the same. The court below vide impugned order dated 30.09.2016, taking into consideration the entire factual matrix of the case, enhanced the amount of maintenance payable to the respondent-wife from Rs.1500/- to Rs. 3000/- and from Rs. 800/- to Rs. 2000/- to the minor son per month. In addition, the expenses towards the accommodation was also enhanced from Rs. 1000/- to Rs. 2000/- per month. Thus, total amount of maintenance payable by the petitioner to the respondent was enhanced from Rs.3300/- to Rs. 7000/- per month.
4. Learned counsel appearing for the petitioner assailing the impugned order submits that the court below should not have entertained the appeal of the respondent wife for the reason that it is only an interim arrangement which was made by the JMFC while passing the order under Section 23 of the Domestic Violence Act. The said order was passed taking into consideration the evidence which had come on record. According to him, the court below has failed to appreciate the fact that the source of income of the petitioner has not been properly assessed and the amount of maintenance enhanced by the court below is very exorbitant and is beyond his paying capacity. The said amount is rather much more than his total salary that he draws as per Annexures P/3 to P/7 which is enclosed along with this petition. Counsel for the petitioner also draws the attention of the court to a notice published in the newspaper somewhere in the year, 2016 and also the affidavit of the

father of the petitioner whereby it has been said that his father for some personal reason disowned the petitioner from his property that he otherwise has and also disassociated the petitioner from the business/property of his father.

5. Thus, for all these reasons, the amount of maintenance enhanced by the court below would make it beyond the paying capacity of the petitioner and he would find it difficult to maintain himself from the remaining amount if the said order of enhancement is honoured. Therefore, the order impugned deserves to be interfered with and quashed.
6. Having considered the submission put forth by the petitioner and on perusal of records, what clearly reflects is the fact that the affidavit of the father as well as the paper publication are of the year, 2016 whereas, the claim application for maintenance filed by the respondent wife was of the year, 2015. Therefore, prima facie it appears that the said documents have been created by the petitioner's father so as to take a defence so that his actual source of income be not disclosed. Further, what is otherwise reflected is the fact that respondent wife is presently residing at Raigarh alongwith her minor son and it is anybody's guess as to what would be the minimum amount which would be required for getting an accommodation and further anybody's guess as to what would be the minimum amount of money which is required for two persons which in the instant case is the petitioner and her minor son for sustaining themselves taking into consideration the high cost of living in today's world. Thus, in the opinion of this court, the court below has not committed any error of law while enhancing the amount of interim maintenance payable to the respondent and her minor son.

7. In any case, it is only interim arrangement which has been ordered by the two courts below. The ground which the petitioner intends to assail is that the respondent wife is not entitled for any maintenance and if at all she is entitled, the maintenance amount should be nominal. All these are matter of facts which can be adjudicated upon after recording of evidence of the parties each justifying their respective stand, defence and their source of income.
8. For the foregoing reasons, this court does not find any illegality in the orders passed by the court below while enhancing the amount of maintenance payable to the respondent. Accordingly, the petition fails and is dismissed.
9. However, taking into consideration the fact that the case is pending before the trial court since 2015, it is expected that the court below on priority basis particularly the fact that proceeding under Section 125 CrPC have to be summarily decided, the court below shall make all endeavors for an early disposal of the case as expeditiously as possible.
10. Needless to mention that the observations/opinion made by this court while passing this order shall not have any bearing on the final outcome of the case. The court below shall decide the same purely in accordance with law and evidence which is brought before the court.

Sd/-
(P. Sam Koshy)
JUDGE