

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.1160 of 2015**

1. Smt. Mridula Ashish Wadekar W/o Ashish Wadekar Aged About 30 Years Through - Sudhakar Vhi Surange, R/o J. 63. Janta Quarter Sector 2 Shankar Nagar Raipur Chhattisgarh

2. Anubhav Wadekar Mother Smt. Mridula Wadekar Aged About 2 Years Through - Shri Sudhakar Vhi Surange, R/o J. 63. Janta Quarter Sector 2 Shankar Nagar Raipur Chhattisgarh

---- Applicants

Versus

Ashish Wadekar S/o D. G. Wadekar Aged About 36 Years R/o Near Hanuman Mandir, Civil Lines Gondia, Maharastra.

-----Non-Applicant

For Applicants:

Shri Pawan Kesarwani, Advocate.

For Non-Applicant:

Shri Shekhar Raosaheb Amin, Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

22.8.2016

1. The instant Criminal Revision has been filed challenging the order dated 31.10.2015 passed by the Family Court, Raipur in MJC No.67/2010. Vide the said impugned order, the Court below has, in a criminal proceeding, allowed the application under Section 125 Cr.P.C of the present Applicants and had ordered for grant of maintenance of Rs.10,000/- to Applicant No.1 and Rs.12,000/- to Applicant No.2 totalling Rs.22,000/- per month to be payable by the Non-Applicant.

2. Learned Counsel for the Applicant submits that the amount so awarded by the Family Court, Raipur is insufficient taking into consideration the gross salary of the Non-Applicant who is working as a Director in one of the firms namely Parametric Architect Technology Pvt. Ltd at Bengaluru and that his

monthly salary admittedly is about Rs.1.25 lacs. Assailing the said judgment, learned Counsel for the Applicant submits that it is a case where the Applicant No.1, because of the constant harassment and ill-treatment subjected to her by the Non-Applicant, had to leave her matrimonial home and take shelter at her paternal home and that she is fully dependent on her aged parents and does not have any source of income so as to sustain herself and her minor son i.e. Applicant No.2. He further submits that on the contrary, the Non-Applicant/husband is working as Director in one of the private companies in Bengaluru and the admitted salary of the Non-Applicant is about 1.25 lacs per month and therefore, the Court below ought to have taken into consideration the status, the position and the standard of living of the Non-Applicant/husband also while granting maintenance amount to the Applicants and the maintenance amount should have been commensurate to the gross salary of the husband and should have been sufficient enough to maintain a decent standard of living commensurate to the status of being the wife of the Director of a Private Limited Company and therefore, the impugned award passed by the Family Court deserves to be modified to that extent.

3. Learned Counsel appearing for the Non-Applicant opposed the Revision and submitted that the order passed by the Court below is a reasoned order and does not warrant any interference. He further submitted that the Court below, taking into consideration the submissions made by the Applicants and on the basis of the total facts and circumstances of the case which had come before it, reached to the conclusion that the Applicants are entitled for maintenance of an amount of Rs.22,000/-. According to him, an amount of Rs.22,000/- is also not a small amount and that is sufficient enough for maintaining decent standard of living and therefore, the present Revision

Petition being devoid of merits, the same is liable to be rejected. He further tried to emphasize the fact that Applicant No.1 has left the matrimonial home on her own without any strong and sufficient ground and therefore, she would be dis-entitled for payment of maintenance amount.

4. So far as the ground of dis-entitlement of the maintenance to the Applicants is concerned, the said submission of the learned Counsel would not be sustainable for the reason that it is in fact an appeal by the wife and the son for enhancement and the husband as such has not challenged the order of the Family Court on its merits so far as the entitlement part is concerned. So far as the issue of maintenance being also granted, true it is that the Court below has granted an amount of Rs.22,000/- by ordering the same in the share of Rs.10,000/- to the wife and Rs.12,000/- to the son, but the fact remains that the status of the Non-Applicant also ought to have been borne in mind predominantly by the Court below while granting maintenance . The husband of Non-Applicant No.1 is the Director of a private limited company and therefore, the standard of living, the status enjoyed by the wife and the sustenance of the wife should had been commensurate to the status of the husband and in the said facts and circumstances of the case, the Applicants so as to maintain decent standard of living commensurate to that of wife and son of a Director should be granted reasonable maintenance amount from the salary which the husband otherwise draws. In the instant case, the admitted position is that the gross salary of the husband is about Rs.1.25 lacs.

5. Thus, in the facts of the present case, this Court is of the opinion that the ends of justice would meet in case the amount of maintenance granted by the Family Court is enhanced slightly to the extent of payment of Rs.15,000/-

to each of Applicants i.e. the maintenance amount payable to the Applicants totalling should be Rs.30,000/- as compared to Rs.22,000/- which has been awarded by the Family Court.

6. With the aforesaid modification, the present Criminal Revision stands allowed to that extent and the award passed by the Family Court dated 31.10.2015 in MJC No.67/2010 stands modified accordingly.

Sd/-
(P. Sam Koshy)
JUDGE