

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 993 of 2015

1. Ghansundar Mahapatra, S/o Nehru Lal Mahapatra, aged about 26 years, Caste Brahman, Service In Airtel Company, R/o Village Pandaripani, Post Jamhari, Police Station and Tahsil Saraipali, District Mahasamud, Second Address House No. 1758, Block 110, Housing Board Colony, Boriyakala, Raipur, District Raipur (Chhattisgarh)

---- Applicant

Versus

1. Smt. Rakhi Devta W/o Ghansundar Mahapatra aged about 24 years, D/o Mangal Prasad, Caste-Brahman, R/o Ward No.15, Behind Irrigation Colony, Basna, Police Station & Tahsil Basna, District- Mahasamund (CG)

---- Respondent

For Applicant: Shri R. Pradhan, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

28/01/2016

1. Heard on admission.
2. Challenge in this revision is to the order dated 9.10.2015 passed by the Family Court, Mahasamund, Camp Court Saraipali, District Mahasamund in Misc. Criminal Case No.34/2015 directing the applicant herein to pay Rs.4,000/- per month as maintenance to the respondent herein.
3. Brief facts of the case are that the respondent-wife filed an application under Section 125 Cr.P.C. before the Court below claiming monthly maintenance of Rs.5,000/- from the applicant herein contending, inter alia, that after some time of the marriage, the applicant started treating her with cruelty for the demand of motor cycle and cash of Rs.1 Lac. The said demand continued and harassment was used as a weapon for fulfilment of the said demand. On 28.10.2013 the applicant had caused grievous injuries to the respondent and on coming to know about the same, her parents came and took her to the parental home at Basna where she availed treatment. It has further been stated in the application that the applicant owns five acre agriculture land and earns about Rs.1 Lac per annum in addition to income of Rs.20,000/- per month by serving in the

Airtel Company, whereas the respondent has no means to maintain herself. Therefore she is entitled to receive maintenance at the rate of Rs.5,000/- per month from the applicant-husband.

4. The application for grant of maintenance was resisted by applicant-husband disputing all the averments pertaining to demand of dowry and harassment. It is submitted that as the applicant has been removed from the service therefore he is unable to pay maintenance amount to the respondent.
5. The Court below after hearing the parties in the matter partly allowed the application filed under Section 125 of Cr.P.C. and awarded maintenance of Rs.4,000/- per month to the respondent-wife.
6. Counsel for the applicant submits that while passing the order of maintenance the Court below has not taken into consideration that the applicant does not have means to pay as he does not have a job. He further submits that there is nothing on record to show that the applicant owns 5 acres of land and thereby earns Rs.1 Lac per annum. Lastly his submission is that respondent has left the company of the applicant voluntarily without there being any sufficient reason and for that also she is not entitled to receive any maintenance from him.
7. From the record it appears that on account of cruel treatment meted out to the respondent at her matrimonial home, she had come back to her parental house and staying there. The applicant has also admitted in his cross-examination that the respondent does not have any source of income, she is dependent on her father and he is capable to maintain her. In these circumstances, we find no illegality or irregularity in the order impugned directing the applicant to pay monthly maintenance of Rs.4,000/- to the respondent for the reason that it is the obligation of the husband to maintain his wife and he cannot refuse to maintain her by pleading that he is unable to do so due to financial constraints as long as he is capable of earning.
8. 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 at the admission stage itself.

Sd/-
(Pritinker Diwaker)
Judge

roshan/-