

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 767 of 2015**

Smt. Poonam Shrivastava W/o Shri Yogesh Shrivastava, Aged 31 Years At Present R/o At Quarter No. E-10, Bamleshwari Nagar, Gudhiyari, Raipur Chhattisgarh.

---- **Petitioner**

Versus

Yogesh Shrivastava S/o Shri Badriprasad Shrivastava, Aged 36 Years R/o Q. No. 2, Maitri Bihar Colony, Police Station, City Kotwali Dhamtari, District Dhamtari Chhattisgarh.

---- **Respondent**

And**Criminal Revision No. 1018 of 2015**

Yogesh Shrivastava S/o Badri Prasad Shrivastava Aged About 34 Years R/o House No. 2, Maitri Vihar Colony, P.S. City Kotwali, Dhamtari, Distt. Dhamtari, Chhattisgarh.

---- **Petitioner**

Versus

Smt. Poonam Shrivastava W/o Yogesh Shrivastava Aged About 29 Years R/o E-10, Bamleshwari Nagar, Gudhiyari, Raipur, Distt Raipur, Chhattisgarh.

---- **Respondent**

For Petitioner-Wife	:	Shri NK Chatterjee, Advocate.
For Respondent-Husband	:	Shri Jitendra Pali, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

19/09/2016

1. Since both the revisions arise out of common judgment and decree dated 05.08.2015, they are heard together and are being disposed of by this common order.
2. Both these revisions have been preferred assailing the judgment and decree dated 05.08.2015 passed by the Principal Judge, Family Court, Raipur, in Criminal MJC Case No.182 of 2013. Vide the impugned

judgment and decree, in a proceeding under Section 125 CrPC, the court below has allowed the application and has ordered for payment of Rs.6000/-per month as maintenance to the petitioner-wife to be paid by the respondent-husband.

3. According to learned counsel appearing for the petitioner-wife, the amount of maintenance granted to her by the family court is on the lower side as compared to the income of the respondent-husband. According to petitioner-wife, the respondent is running a Computer institute along with his brother and his monthly income is more than Rs.70,000/-. Therefore, the amount of maintenance granted to the petitioner by the court below deserves to be enhanced suitably commensurate to the standard of living which the respondent is maintaining.
4. Counsel for the respondent-Husband opposing the revision filed by the wife and also challenging the order impugned by way of a separate revision submits that the order impugned dated 05.08.2015 is bad in law for the reason that the findings of the court below with regard to petitioner-wife being subjected to cruelty and ill treatment forcing her to leave the matrimonial house is incorrect, false and bad in law. Further, she has not been able to prove the income of the respondent-husband before the court below and only on the basis of oral statement of wife, the court below has taken the monthly income of the respondent to be more than Rs.70,000/-and has awarded the maintenance amount of Rs.6000/- per month, and therefore, the order impugned deserves to be set aside.

5. Having heard the rival contentions put forth by either side and on perusal of record, what clearly culls out on the basis of what is brought to the notice of the court is that, subsequent to the passing of impugned order dated 05.08.2015, a mutual decree of divorce has already been passed between the parties on 14.08.2015 and as on date the parties are staying separately because of said decree of divorce. Therefore, all the other issues which have been raised by the either parties are of no consequence as of now and the only issue which now remains to be adjudicated is the quantum of maintenance of the award.
6. Considering the evidence which have come on record, admittedly the husband and his brother Chandresh Shrivastava are managing a computer institute namely Dhamtari Institute of Information Technology. The respondent-husband has not produced before the court the financial statement of the said institute to disclose the net profit or loss of the current and previous years so as to ascertain the amount that the petitioner and his brother would have got by way of profit, if any. Further, taking into consideration the standard of living which the respondent-husband is maintaining, if we take into account the amount of maintenance which have been awarded by the court below to the petitioner-wife, it does not appear to this court to be exorbitant for the reason that if Rs.6000/- is divided into the number of days of a month, it barely comes to Rs.200/- per day which is less than the amount which any ordinary labour receives for working in the fields. Maintenance amount of Rs.6000/- cannot be said to be exorbitant for a

person to sustain in the present day's cost of living which includes payment of rent for a house and also to meet the day to day expenses for maintaining a person.

7. Accordingly, in the opinion of this court, both the revisions filed by the wife as well as the Husband being devoid of merit deserve to be and are accordingly rejected and the order of the Family Court stands affirmed. No order asto costs.

Sd/-
(P. Sam Koshy)
Judge

inder