

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 238 of 2017**

Shri Vijay Sahu S/o Shri Keshavram Sahu Aged About 32 Years R/o House No.1 /4, New Krishna Nagar,- Block - 1, Plot No. 4, Supela, Bhilai, Police Station- Supela, Tahsil & District- Durg, Chhattisgarh.

---- Applicant**Versus**

Smt. Richa Sahu W/o Shri Vijay Sahu Aged About 29 Years D/o Shri Praduman Kumar Sahu, R/o B-7, Vidyavihar Colony, Vidyut Nagar, (Padmanarpur), Durg, District- Durg, Chhattisgarh

---- Respondent

For Applicant : Mr. A.K. Prasad, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/03/2017**

Heard.

1. This revision is directed against order dated 17.01.2017 passed by the Additional Principal Judge, Family Court, Durg, by which, respondent wife has been granted interim maintenance of Rs.4000/- per month.
2. Challenge is made to the order on the submission that the wife is able to maintain herself because she has been appointed and working as a lecturer in a private dental college and she is running a dental clinic. He further submits that earlier proceedings drawn before the Family Court in divorce proceedings application under Section 24 of the Hindu Marriage Act was rejected on the ground that the wife is working and earning. It is further submitted that in any case, the Court below ought to have appreciated that the respondent wife is not justified in living separately because of what has been stated by her in the trial for alleged commission of offence under Section 498 A of IPC against the applicant.

3. Earlier application under Section 24 of the Hindu Marriage Act was rejected way back in the month of May, 2015 taking into consideration the then existing situation. In the maintenance application, which has now been filed by the wife before the Magistrate, it has been stated that her services have been terminated and she is no longer running any clinic because of her financial stagnation. The aspect whether the wife is not justified in living separately, would require evidence and at this stage, the wife cannot be denied interim maintenance on this ground. Reference to the evidence of the wife in 498-A criminal case, does not show conclusively at this stage that the wife is not justified in living separately merely because she expressed that she wanted divorce.

4. While considering application for grant of interim maintenance by the wife, detailed enquiry or recording of evidence is not the requirement of law. At this stage, application is to be decided keeping in view the pleadings, affidavit and the documents available on record. This exercise has been done by learned Court below and I do not find any illegality in recording a finding at this stage. The respondent wife is entitled to Rs.4000/- per month as interim maintenance during the pendency of proceeding under Section 125 Cr.P.C. particularly taking into consideration that the applicant happens to an engineer and earning handsome salary.

5. The revision is, therefore, dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge