

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1129 of 2016

1. Jahid Ansari S/o Anis Ansari Aged About 27 Years,
2. Anis Ansari Aged About 50 Years,
3. Smt. Nashim Ansari W/o Anis Ansari Aged About 40 Years
4. Smt. Kulsum W/o Late Sheikh Jabbar Aged About 70 Years,
5. Smt. Babli Aged About 40 Years,
6. Smt. Jabbo W/o Late Dou Aged About 35 Years,

All are R/o Behind Video World, Near The House Of Puppy Sethi,
Maudahapara, Raipur, Chhattisgarh.

---- Applicants

Versus

Smt. Nigar Parveen W/o Jahid Ansari Aged About 25 Years R/o Flat
No. 4/8, Block No. 3, Near Walford City, R.D.A. Building,
Bhatagaon, Tahsil & District Raipur, Chhattisgarh.

---- Respondent

For applicants - Shri L.C. Dash, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

28/06/2017

1. Heard.
2. This revision is against the order dated 7/10/2016 passed by the Additional Sessions Judge, Raipur in Criminal Appeal No.141/2016 whereby interim maintenance has been directed to be paid of Rs.6000/- by the non-applicant No.1 Jahid Ansari to applicant Nigar Parvin. Perusal of the order would show that initially an application was filed by respondent Nigar Parveen before JMFC Raipur for domestic violence and in such case on 5/07/2016 the order was passed by the JMFC and no maintenance was granted by the JMFC on the ground that non-applicant is already getting Rs.3300/- from the family court as interim maintenance.

3. Against such order appeal was preferred by the wife. The appellate court affirmed the fact that the wife was subjected to domestic violence by the husband and she was forcefully deserted and thrown out of the house by the non-applicant. The statement of the wife is considered alongwith statement of the one Najima Begum the mother of the non-applicant and it was stated that she was forced to leave the house wherein she was staying alongwith the family despite the fact no suitable arrangement were made. In statement of Jahid Ansari husband, the fact was admitted that the respondent Nigar Parveen was the wife but would not explain the logic as to why he was not able to keep the wife with him only stated that because of the dispute in the house he has left the wife and moved to stay away alongwith his mother and father to another place. Said statement of the husband appears to be not appreciated by the court below in proper prospective and finding has come that non-applicant/wife alongwith the children were living separately. Therefore the fact that wife and children were staying separately for what reasons, has the significance. It has also come on record by evidence that no separate arrangement has been made for their stay and two children of non-applicant were found that they were living with the mother.

4. It was held by lower court that house wherein non-applicant was staying was in the name of Kulsum Bee. So it is not in issue that wife cannot be ordered to be kept in same house. In such circumstances the husband would be at moral and pious duty to maintain the life standard of his wife and children properly. The evidence have come on record that presently, the husband has not care to look after his wife and children rather prima-face they were subjected to domestic violence.

5. After appreciating the statement of the witness/husband court has held that husband used to earn Rs.40,000/- per month. There is no

rebuttal to this fact has come on record to show that amount of Rs.40,000/- per month was not being earned by the husband. Thereby for the fact that payment of Rs.3300/- is been directed to be paid by the family court as against the income of the husband to the extent of Rs.40,000/- definal of further amount to the wife and two children cannot be held to be justified. Therefore the order which has been passed by the court below directing further payment of amount of Rs.6000/- per month to the wife cannot be stated to be exorbitant or inflated and without any evidence on record. In the facts of this case, I am not inclined to interfere in such order.

6. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE