

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 489 of 2017**

1. Vivek Singhania, aged about 27 years, S/o Shri Subhash Singhania,
 2. Subhash Singhania, aged about 52 years, S/o Shri Murari Lal,
 3. Smt. Santoshi Singhania, aged about 48 years, W/o Shri Subhash Singhania,
 4. Komal Singhania, aged about 24 years, D/o Shri Subhash Singhania,
- All are R/o Sada Colony, Behind Petrol Pump, Main Road Jamnipali, Korba, Distt. Korba (C.G.).

--- Applicants**Versus**

Smt. Jyoti Agrawal, aged about 24 years, W/o Shri Vivek Singhania and D/o Shri Anand Agrawal, R/o Lochan Nagar, Raigarh, District Raigarh (C.G.).

---- Respondent**AND****Criminal Revision No. 798 of 2017**

Smt. Jyoti Agrawal, aged about 24 years, W/o Shri Vivek Singhania and D/o Shri Anand Agrawal, R/o Lochan Nagar, Raigarh, District Raigarh (C.G.).

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- All are R/o SADA colony, Behind Petrol Pump, Main Road Jamnipali, Korba, Distt. Korba (C.G.).

---- Respondents

For Applicant (In CRR No. 489/2017) :	Mr. Malay Shrivastava, Advocate
For Applicant (In CRR No. 798/2017) :	Mr. Shryenkar Nandy, Advocate appears on behalf of Mr. Harsh Wardhan, Advocate
For Respondent(In CRR No.489/2017 :	Mr. Malay Shrivastava Adv.
For Respondent(In CRR No.798/2017 :	Mr. Shryenkar Nandy, Advocate appears on behalf of Mr. Harsh Wardhan, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

01/10/2018

1. Since both the cases arise out of order dated 23/03/2017 passed in Criminal Appeals No. 36/2017 & 3/2017, therefore, they are being disposed of by this common order.
2. Facts of the case are that applicant- Jyoti Agrawal 798/2017 is wife of applicant- Vivek Singhanian. Jyoti Agrawal filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (henceforth 'the Act 2005') before the Chief Judicial Magistrate, Raigarh. She also moved an application under Section 23 of the Act, 2005. It was pleaded in the application by her that since her husband- Vivek deserted her and she is residing separately and unable to maintain herself. Therefore, she claimed for interim maintenance for her livelihood and payment of house rent.
3. Vide impugned order dated 03/01/2017, the learned Chief Judicial Magistrate ordered to pay Rs. 5000/- monthly interim maintenance in favour of wife- Jyoti. Wife-Jyoti had preferred an appeal against the said order for further enhancement, which was registered as Criminal Appeal No. 3/2017. Husband- Vivek also preferred an appeal against the said order which was registered as Criminal Appeal No. 36/2017. Both the appeals were decided by a common impugned order passed by the Sessions Judge, Raipur and both the appeals were rejected by the Sessions Judge, who affirmed the order dated 03/01/2017 of the Chief Judicial Magistrate, Raipur.

4. Mr. Malay Shrivastava, Counsel appearing on behalf of applicant- Vivek Singhaniya submits that vide order dated 11/01/2018, the learned Family Court, Raigarh has allowed the application submitted under Section 125 of the Cr.P.C by the wife and granted Rs. 5000/- monthly maintenance in her favour. Vide order dated 03/01/2017, she has also been granted interim maintenance under the provisions of the Act, 2005. He further submits that wife- Jyoti Agrawal is not entitled to claim maintenance under different provisions of law. She could only have availed the remedy of claiming maintenance either under Section 125 of the Cr.P.C or under the Act, 2005.
5. Counsel appearing on behalf of husband- Vivek Singhania submits that it is a case where two forums have been provided under the different statutes and that there is no prohibition under the two laws for claiming maintenance under each of the Act. The case under the Act, 2005 is separately conducted before a different forum and the considerations on the said complaint are entirely different, whereas, application under section 125 Cr.P.C is filed before a different forum under a different provision of law and where the consideration is entirely different as compared to the Act, 2005. Reliance has been placed upon **(2014) 10 SCC 736, Juveria Abdul Majid Patni v. Atif Iqbal Mansoori & Anr.**
6. It is clear that vide order dated 03/01/2017, maintenance of Rs. 5000/- was granted by the Chief Judicial Magistrate and vide order dated 11/01/2018 Rs. 5000/- under Section 125 Cr.P.C has been granted to the wife. Thus, total 10,000/- under the head of maintenance has been granted to the wife. In Juveria Abhdul Majid Patni (Supra), it was held

by the Apex Court in para 23 as under:-

23. *In the instant case, the appellant sought relief under Sections 18 to 23 of the Domestic Violence Act, 2005. It includes protectio order under Section 18, monetary relief under Section 20, custody orders under Section 21, compensation under section 22 and interim relief under Section 23. The relevant provisions read as follows:-*

“20. Monetary reliefs.- (1) *While disposing of an application under sub-section (1) of Section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of domestic violence and such relief may include, but is not limited-*

(a) the loss of earning;

(b) the medical expenses;

(c) the loss caused due to the destruction damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under Section 125 Cr.P.C, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this Section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment of monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-

section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1). the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued with the Court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent."

The monetary relief as stipulated under Section 20 is different from maintenance, which can be in addition to an order of maintenance under Section 125 Cr.P.C or any other law. Such monetary relief can be granted to meet the expenses incurred and losses suffered by the aggrieved person and child of the aggrieved person as a result of the domestic violence, which is not dependent on the question whether the aggrieved person, on the date of filing of the application under Section 12 in a domestic relationship with the respondent.

7. It was further held in para 25 that

25. *It is not necessary that relief available under Sections 18,19, 20, 21 and 22 can only be sought for in a proceeding under the Domestic Violence Act, 2005. Any relief available under the aforesaid provisions may also be sought for in any legal proceeding even before a civil court and Family Court, apart from the criminal Court, affecting the aggrieved person whether such proceeding was initiated before or after the commencement of the Domestic Violence Act. This is apparent from Section 26 of the Domestic Violence Act, 2005.*

8. From the above, now it is settled that, both the above orders would be sustainable.

9. With regard to quantum of maintenance, looking to the financial status of husband, the total amount of maintenance of Rs. 10,000/- is just and proper and no further enhancement is required.

10. In the result, there are no merits in these revisions. Both are dismissed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul