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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.10 of 2018

1. Smt. Radhika Sonkar, W/o Shri Mahesh Sonkar, aged about 25 years, By Caste Sonkar,
2. Ishant Sonkar, S/o Shri Mahesh Sonkar, aged about 03 years, By Caste Sonkar, Minor through natural guardian Mother Smt. Radhika Sonkar

Both are residents of Rampur Ward – 162, Dhamtari, Thana Dhamtari, Civil and Revenue District Dhamtari, Chhattisgarh

---- Applicants

versus

Mahesh Sonkar, S/o Shri Aganuram Sonkar, aged about 28 years, By Caste Sonkar, R/o Bajarpara Charama, Ward No.06, Thana and Tahsil Charama, Civil and Revenue District North Bastar Kanker, Chhattisgarh

--- Respondent

and

Criminal Revision No.192 of 2018

Mahesh Sonkar, S/o Shri Aganuram Sonkar, aged about 28 years, By Caste Sonkar R/o Village Bajarpara Charama, Ward No.06, Thana and Tahsil Charama, Civil and Revenue District North Bastar Kanker, Chhattisgarh

---- Applicant

versus

1. Smt. Radhika Sonkar, W/o Shri Mahesh Sonkar, aged about 25 years, By Caste Sonkar,
2. Ishant Sonkar, S/o Shri Mahesh Sonkar, aged about 3 years, By Caste Sonkar, Minor through Natural Guardian Mother Smt. Radhika Sonkar

Both are R/o Rampur, Ward 162, Dhamtari, Thana Dhamtari, District Dhamtari, Chhattisgarh

--- Respondents

For Smt. Radhika Sonkar & Shri Ishant Sonkar : Shri Sunil Sahu, Advocate
For Shri Mahesh Sonkar : Shri Vivek Tripathi, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

29.10.2018

1. Since both the revisions arise out of a common order, they are

disposed of together by this common order.

2. The revisions have been preferred against the order dated 27.11.2017 passed by the Family Court, Kanker in M.Cr.C. No.56 of 2017.
3. Vide the impugned order dated 27.11.2017, the Family Court has rejected the application under Section 125, Cr.P.C. relating to Radhika Sonkar, who is Applicant No.1 in Criminal Revision No.10 of 2018 and Respondent No.1 in Criminal Revision No.192 of 2018, but has granted monthly maintenance of Rs.2,000/- to minor Ishant Sonkar, who is Applicant No.2 in Criminal Revision No.10 of 2018 and Respondent No.2 in Criminal Revision No.192 of 2018.
4. Criminal Revision No.10 of 2018 has been filed by wife and son of Mahesh Sonkar, who is Applicant in Criminal Revision No.192 of 2018 and Respondent in Criminal Revision No.10 of 2018, on the ground that despite the fact that Radhika Sonkar has sufficient cause to reside separately from Mahesh Sonkar, the Family Court has wrongly rejected her application for maintenance and looking to the financial status of Mahesh Sonkar, the grant of monthly maintenance of Rs.2,000/- in favour of Ishant Sonkar is on lower side.
5. Criminal Revision No.192 of 2018 has been moved by Mahesh Sonkar on the ground that the grant of monthly maintenance of Rs.2,000/- in favour of Ishant Sonkar is on higher side.
6. It is not in dispute that Radhika Sonkar is legally wedded wife of Mahesh Sonkar and Ishant Sonkar is their legitimate child. It is also not in dispute that Radhika and Ishant are residing separately

from Mahesh Sonkar.

7. Learned Counsel appearing for Radhika Sonkar and Ishant Sonkar submits that there is sufficient evidence on record on the basis of which it reveals that wife Radhika has sufficient cause to live separately from husband Mahesh. Despite that, without any proper reason, the Family Court has rejected the application of wife Radhika for grant of maintenance. He further submits that looking to the earning capacity of Mahesh Sonkar, the grant of monthly maintenance of Rs.2,000/- in favour of Ishant Sonkar is on lower side and deserves to be enhanced suitably.
8. Learned Counsel appearing for Mahesh Sonkar submits that from the evidence on record itself it is clear that wife Radhika is residing separately from husband Mahesh at her own will without any reasonable cause. She does not want to live with husband Mahesh, therefore, her application for maintenance has rightly been rejected by the Family Court. He further submits that Mahesh works as a labour and he is a poor person. Therefore, looking to the financial status of Mahesh, the grant of monthly maintenance of Rs.2,000/- in favour of minor child Ishant is on higher side and deserves to be reduced suitably.
9. I have heard Learned Counsel appearing for the parties and perused the record with due care.
10. In her examination-in-chief itself, Applicant Witness No.1, Radhika Sonkar has categorically stated that she lodged a report of dowry demand against husband Mahesh Sonkar with an intention that she will reside with him separately from other members of his family. Thereafter, husband Mahesh started living with her

separately from other members of his family. She has further stated that she herself started selling vegetables out of home and husband Mahesh started staying at home with the child. In para 11 of her cross-examination, she has admitted the fact that a case is pending against her for committing *marpeet* with husband Mahesh and his family members. In para 14 also, she has categorically admitted that husband Mahesh wants her to keep with him, but she, stating that he is lazy, does not want to live with him. Tulsiram, father of Radhika has also admitted the fact that in a social meeting, Radhika refused to live with husband Mahesh, therefore, Radhika was expelled out from their community for a period of 1 year. From the above, it is clear that husband Mahesh is willing to keep Radhika with him, but she is residing separately from him without any reasonable cause. Factually, she is not ready to live with him. From the evidence on record, it is also clear that earlier also, she wanted to live with husband Mahesh separately from other members of his family and, therefore, she, without there being any truth, lodged a false report of dowry demand against him. Thus, the finding of the Family Court that wife Radhika is residing separately from husband Mahesh without any reasonable cause is just and proper and does not warrant any interference by this Court. Hence, she is not entitled to get maintenance from her husband.

11. As regards quantum of monthly maintenance which has been granted by the Family Court to minor son Ishant Sonkar, from the record it is clear that Mahesh Sonkar has admitted the fact that he is capable to maintain his wife Radhika and is also physically fit to make earning. He has also admitted that he owns some

agricultural land and he earns about Rs.20,000/- per annum from the said land. He has further admitted that he also sells vegetables.

12. Looking to the above earning capacity of husband Mahesh and age of minor son Ishant and social status of both the parties, the grant of monthly maintenance of Rs.2,000/- to Ishant is just and proper and does not warrant any interference by this Court.
13. Consequently, both the revisions are dismissed.
14. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge