

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.296 of 2018

Jayanto Mitra, son of Shri R.N. Mitra, aged about 36 years, Senior Software Engineer, Birla Soft Limited, Plot No.23, Sector 1, Huda Techno Enclave, Madhapur, Hyderabad, Andhra Pradesh 500081, r/o Sagar View Apartment, Flat No.504, B.S. Makta, Behind Hotel Blunun, Bemampet, Sikandrabad, Andhra Pradesh, 500016, R/o Jayanto Mitra, son of R.N. Mitra, 61, K/3, Pushpanjali Nagar, Bhavapur, Allahabad, U.P.

---- Applicant

versus

1. Smt. Namita Mitra, W/o Shri Jayanto Mitra, aged about 35 years, D/o Shri Chitranjan Dey
 2. Sushanto Mitra, S/o Shri Jayanto Mitra, aged about 7 months
- Both R/o R.D.A. Colony, Block No.A, Tikrapara, District Raipur, Chhattisgarh

--- Respondents

and

Criminal Revision No.362 of 2018

1. Smt. Namita Mitra, aged about 45 years, W/o Jyanto Mitra,
 2. Sushanto Mitra, aged about 11 years, son of Jyanto Mitra, through his mother and natural guardian Smt. Namita Mitra (Applicant No.1)
- Both residents of C/o Shri Chitranjan Dey, R.D.A. Colony, in front of Block No.A, Tikrapara, Raipur, Chhattisgarh

--- Applicants

versus

Jyanto Mitra, aged about 46 years, son of Shri R.N. Mitra, resident of 61, K/3, Pushpanjali Nagar, Bhavpur, Allahabad, U.P.

---- Respondent

For Jayanto Mitra	:	Smt. Smita Jha, Advocate
For Smt. Namita Mitra and Sushanto Mitra	:	Shri Abhyuday Singh, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

6.8.2018

1. With the consent of Learned Counsel appearing for the parties, the revisions are heard finally.
2. Since both the revisions have been preferred against a common order, they are disposed of by this common order.
3. Both the revisions arise out of the order dated 8.2.2018 passed by the Family Court, Raipur in M.J.C. No.538 of 2014, whereby the Family Court has allowed the application under Section 125 of the Cr.P.C. submitted by the Applicants of Criminal Revision No.362 of 2018 and has granted monthly maintenance of Rs.10,000/- in favour of Applicant No.1/wife, Namita Mitra and that of Rs.6,000/- in favour of Applicant No.2/son, Sushanto Mitra. Criminal Revision No.296 of 2018 has been preferred by Jayanto Mitra, husband of Namita Mitra on the ground that wife Namita Mitra is residing separately from him without sufficient cause and, therefore, she is not entitled to get any maintenance and further on the ground that the monthly maintenance granted by the Family Court in favour of the Respondents is on higher side. Criminal Revision No.362 of 2018 has been preferred by the wife and son of Jayanto Mitra for enhancement in the amount of maintenance granted in their favour by the Family Court.
4. I have heard Learned Counsel appearing for the parties and

perused the record with due care.

5. It is not in dispute that the marriage between Jayanto Mitra and Namitra Mitra was solemnised on 31.7.2006 and out of their wedlock, Sushanto Mitra/son took birth on 8.9.2007. It is also not in dispute that on the basis of a report made by wife Namita Mitra, a criminal case under Section 498A of the IPC was prosecuted in which husband Jayanto Mitra and his family members were convicted and subsequently on preferring of an appeal, the husband and his family members were acquitted of the charge. Against the acquittal, a revision has been preferred by the wife, which is still pending before this Court.
6. From the evidence adduced by the parties, it is clear that allegedly the wife was subjected to cruelty by the husband and his family members and on the basis of the report made by her, the husband and his family members were prosecuted and convicted for the offence punishable under Section 498A of the IPC and in appeal they were acquitted of the charge. Against the acquittal, revision of the wife is still pending before this Court. There is nothing on record to show that the husband ever took any legal or social step to bring the wife back to him. Therefore, the Family Court has rightly arrived at the conclusion that the wife is residing separately from him with sufficient cause.
7. Regarding quantum of the maintenance, from the evidence adduced by the parties, it is clear that earlier the husband had worked as a Software Engineer and was getting Rs.10 Lakhs yearly. But, at present, he is not working in the said software company. In paragraph 11 of his cross-examination, he has

admitted that at present, he is working with a private company, but he denied to disclose the name of the said private company and also declined to disclose the salary which he is getting from the said company due to secrecy policy of that company. From the above, it is clear that at present, the husband is working in a private company, but he does not want to disclose his earning from the said company for the reasons best known to him only. Looking to the above facts and circumstances of the case, the Family Court has rightly granted the monthly maintenance of Rs.10,000/- in favour of the wife and Rs.6,000/- in favour of the son.

8. Consequently, both the revisions are dismissed.
9. 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