

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 480 of 2005

Order reserved on 28.11.2018

Order pronounced on 05.02.2019

Damyanti Devta W/o Shri Rupanand Devta, aged about 25 years, resident of Gandhi Nagar Khursipar, Bhilai, Durg, District Durg, CG.

---- Applicant

Versus

Rupanand Devta S/o Ghatsunder Devta, aged about 30 years, R/o Mahalpara, Saraipara, Saraipali Tahsil Saraipali, District Mahasamund, CG.

---- Respondent

For Applicant	: Ms. Aparajita Gaikwad, Advocate
For Respondent	: Shri Prasoon Agrawal, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

By order dated 26.09.2005 passed by Family Court in Cr.MJC No. 107/2005 which is under challenge in this revision petition, the petitioner/wife has been awarded monthly maintenance of Rs. 1,000/- whereas she had claimed Rs. 3,000/- per month from the respondent/husband.

2. Petitioner and respondent were married to each other on 02.05.1999 according to the existing social customs. Three months thereafter the respondent/husband is alleged to have started making taunts against the petitioner/wife for bringing insufficient dowry in the marriage. While claiming maintenance, the petitioner also alleged that the respondent performed re-marriage with Vanita Das without dissolution of the first marriage with her. The husband is also alleged to have suspected her to

live in adultery with her brother-in-law. She has alleged that the respondent was earning Rs. 5,000/- per month from the office of Santosh Mishra, Advocate where he was engaged clerk and Rs. 10,000/- per month from agriculture. Total monthly income of the respondent has thus been stated to be Rs. 15,000/- though she has not produced any documentary evidence to this effect.

3. Respondent/husband however has denied all the allegations made by his wife while replying to the application u/s 125 of the Code of Criminal Procedure. Even the income aspect has been given complete denial by stating that he was an unemployed guy and does not earn anything either as clerk in the office of the advocate or as an agriculturist. Rather, he has stated that the petitioner herself earns Rs. 2,100/- per month through labour work.

4. Be that as it may, there is no dispute that the petitioner and the respondent are legally married husband and wife, and as such it is the duty of the husband to take care of his spouse by paying the optimum amount of maintenance so that she is not required to live a helpless hellish life. At the same time, the husband's source of income should also be considered while awarding the maintenance and no random approach in doing so should be adopted. Here in this case, though the petitioner/wife has claimed an amount of Rs. 3,000/- per month showing various sources of income of the respondent/husband yet mere pleading to this effect does not suffice and it is required to be proved by adducing cogent and conclusive evidence. What is apparent from the pleading of the petitioner is that respondent's monthly income is shown to be Rs. 15,000/- but not even a single document has been produced by her to establish the same.

5. In aforesaid view of the matter, the order impugned granting maintenance of Rs. 1,000/- per month to the petitioner/wife is absolutely justified and does not require any interference by this Court. Revision has no substance and is therefore dismissed.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan