

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 359 of 2018**

- Rajendra Kumar Sharma S/o Late Shri A. P. Sharma Aged About 53 Years R/o House No. 49/6, Radhika Nagar, P. S. Supela, Bhilai, District Durg Chhattisgarh

---- Applicant**Versus**

- Smt. Sarita Sharma W/o Rajendra Kumar Sharma Caste Brahman, R/o Through Shri Kulbhushan Sharma, Quarter No. 3-B, Ground Floor, Street No. 25, Sector -4, Bhilai Nagar, P. S. Bhilai Bhatti, Tahsil And District Durg Chhattisgarh

---- Respondent

For Applciant	: Smt. Arti Chandra Dutt, Advocate
For Respondent	: Shri Vijay K.Deshmukh, Advocate

Hon'ble Smt. Justice Rajani Dubey**Order On Board****29/08/2019**

This revision is directed against the order dated 27.02.2018 passed by the Principal Judge, Family Court, durg in Criminal M.J.C. No. 932/2016 whereby the learned Judge allowed the application under Section 125 Cr.P.C. filed by the non-applicant and granted Rs. 20,000/- per month as maintenance in her favour.

Brief facts of the case are that respondent/wife filed application under Section 125 Cr.P.C. before the trial court on the ground that she got married with the applicant on 21.04.2015 as per Hindu customs. Before marriage the applicant had informed the non-applicant that he

was earlier married and got divorce from his first wife and therefore the non-applicant agreed to marry him but after marriage, the attitude of the applicant became aggressive. Non-applicant was physically and mentally tortured by the applicant therefore she moved application under Section 125 Cr.P.C. for grant of maintenance. She is residing with her brothers and is unable to maintain herself. The applicant is employed in BHEL as engineer and is posted as Senior Officer and his monthly salary is Rs. 1,50,000/- per month therefore the non-applicant has demanded Rs. 75,000/- per month as maintenance.

In his reply the applicant has denied all the allegations levelled against him and stated that she is the second wife and therefore she is not entitled for any maintenance.

Learned trial court after appreciating the oral and documentary evidence allowed the application of the non-applicant and granted Rs. 20,000/- per month as maintenance. Hence, this present revision.

Counsel for the applicant submits that the impugned order is bad in the eye of law. Learned court below has committed a grave error by non-appreciating the provisions under Section 125 Cr.P.C. in its true prospect.

He further submits that the learned trial court committed grave error by holding that the non-applicant did not have any source of income whereas the respondent is working as Professor on adhoc basis at Government College, Vaishali Nagar, Bhilai, district Durg and she is earning Rs. 25-30,000/- per month and the maintenance of Rs. 20,000/- awarded to the non-applicant is on the higher side. Learned

trial court has failed to appreciate the documents filed by the applicant showing that he was mentally harassed by the non-applicant. Learned trial court has also failed to consider that the income of the applicant comes to Rs. 35,000/- per month after deduction and therefore has committed grave error by non appreciating the documentary evidence produced which clearly shows that the behaviour of the non-applicant was very rude. She did not want to reside with the applicant and she did not like the applicant and therefore lived in her matrimonial house of her own. Learned trial court failed to appreciate that the applicant's mother, brother and sisters are dependent upon him so the impugned order is liable to be set aside.

On the other hand, counsel for the non-applicant supports the impugned order.

Heard counsel for the parties and perused the material available on record.

Before the trial court non-applicant has examined herself as AW-1 and applicant examined himself as NAW-1. The applicant has filed document Ex.A-1, income tax return of the applicant. Learned trial court after appreciating the oral and documentary evidence found that the non-applicant has sufficient cause to live separately and on the basis of document Ex.A-1, it is found that the salary of the applicant is Rs. 1,00,000/- per month. Applicant/husband has also admitted in his cross examination that his salary is Rs. 95,000/-per month therefore the learned trial court awarded Rs. 20,000/- per month in favour of non-applicant.

As regards to quantum of maintenance, learned trial court has appreciated both the oral and documentary evidence of the parties and has fixed the amount of maintenance to Rs. 20,000/- which is just and proper and does not call for interference. Thus, the order passed by the Family Court is well reasoned order and therefore I find no error, illegality or infirmity in the impugned order. The revision lacks merit and is dismissed accordingly.

Sd/-

(Rajani Dubey)
Judge