

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 128 of 2019

Sourabh Modi, aged about 28 years, S/o Late Shri Satish Modi,
R/o House No. 812, Street No. 04, Sunder Nagar, Police Station
D.D. Nagar, Raipur, District Raipur Chhattisgarh.

---- Appellant

Versus

Smt. Neelam Modi, aged About 28 Years, W/o Sourabh Modi D/o
Shri Sohan Lal Tandan, R/o Infront Of Little Flower School,
Katora Talab, Tahsil And District Raipur Chhattisgarh.

---Respondent

WITH

CRR No. 544 of 2019

Sourabh Modi, aged about 28 years, S/o Late Shri Satish Modi,
R/o House No. 812, Street No. 04, Sunder Nagar, Police Station
D.D. Nagar, Raipur, District Raipur Chhattisgarh.

---- Petitioner

Versus

Smt. Neelam Modi, aged About 28 Years, W/o Sourabh Modi D/o
Shri Sohan Lal Tandan, R/o Infront Of Little Flower School,
Katora Talab, Tahsil And District Raipur Chhattisgarh.

---- Respondent

For the Appellant	:-	Mr. Shikhar Sharma, Advocate
For the Respondent	:-	Mr. Akash Kumar Kundu, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava J.

12.07.2019

1. The appeal of the husband is against the order dated 29.03.2019 by which the respondent/wife has been granted Rs.7,000/- per month as maintenance *pendente lite* and Rs.4,000/- as litigation expenses.

2. Learned counsel for the appellant would argue that learned Court below having recorded a finding that the respondent/wife is earning Rs.12,000/- per month, was not justified in awarding maintenance *pendente lite* to the wife. He argues that before the learned Court below, the appellant had disclosed that he is getting Rs.17,000/- salary in hand which has been disbelieved for want of production of pay slip which he has filed now before Appellate Court.

3. The other submission is that simultaneously along with filing of application under Section 24 of the Hindu Marriage Act for grant of maintenance *pendente lite* and litigation expenses, the respondent/wife also filed an application under Section 125 Cr.P.C. for grant of maintenance before the Family Court. Learned Family Court passed two orders on the same day in two different proceedings and in each of the case Rs.7,000/- has been awarded as maintenance in favour of wife which is highly illegal apart from being far excessive of the requirement of the wife and the capacity of the husband to make payment of such a huge amount. He would submit that if he is required to pay Rs.15,000/- to the wife who is already earning Rs.12,000/- per month and the appellant would be left with only Rs.2,000/- in his hand. The order, therefore, causes serious injustice.

4. On the other hand learned counsel for the respondent would argue that the appellant's contention that he is earning only Rs.17,000/- per month in his hand is liable to be rejected because

before the Court below, he had not produced any salary slip and what has been now produced before the Court proves that his gross income is Rs.30,000/- per month. It is further argued that the respondent/wife is engaged in private employment and total amount of Rs.12,000/- which is her salary is also subject to various deductions.

5. We have heard learned counsel for the parties and perused the order.

6. Even though before the Family Court the husband could not submit his salary slip, the same has been filed before us in which it is found that after making all deductions he is getting around Rs.17,000/- per month. Learned counsel for respondent could not dispute that the respondent/wife is earning Rs.12,000/- per month, may be in a private employment. He has not produced before us any document to show that any deductions are being made and that what she is getting in her hand is far less than Rs.12,000/-. Therefore, it is difficult for this Court to accept that respondent/wife is not earning any income and that she needs monthly maintenance amount to secure her existence. Therefore, in this view of the matter we are inclined to interfere with an order to the extent it awards monthly interim maintenance in favour of respondent/wife. We accordingly set aside that part of the order holding that wife would not be entitled to any monthly maintenance. However, taking into consideration that she would be required to attend various proceedings in the Court and she

being in a private employment may have to suffer deductions of the salary on days on which she is not able to attend her work due to Court proceedings, the amount of litigation expenses is increased to Rs.7,500/-. The appeal is accordingly partly allowed in this manner.

7. However, before parting with the case we must observe that if the wife, later on, loses her employment or because of certain deductions she may not be getting Rs.12,000/- per month, she will have all the liberty to move appropriate application before the learned Family Court seeking directions for payment of monthly maintenance also.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay