

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 544 of 2019

Sourabh Modi, aged about 29 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.

---- Applicant

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 Applicant	:-	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. Heard on IA No.2 – an application for condonation of delay in payment of process fee. As the respondent has already appeared, there is no need for the applicant to pay process fee. The parties are before us and, therefore, with their consent the matter is being decided finally.
2. This revision is directed against the order dated 29.03.2019 by which the Family Court has allowed wife's application under Section 125 Cr.P.C. and awarded interim maintenance of Rs.7,000/- in her favour. Learned counsel for the applicant would argue that this Court while deciding the appeal arising out of order for grant of maintenance *pendente lite* and litigation expenses

under Section 24 of Hindu Marriage Act has held that the wife is earning Rs.12,000/- per month, therefore, the order for grant of interim maintenance of Rs.7,000/- is not legal. He would further submit that in view of the Supreme Court decision in the case of **Sanjay Kumar Sinha Versus Asha Kumari and anr.** In **Civil Appeal No.3658/2018**, once order under Section 24 has been passed by the Family Court, the order passed by Family Court under Section 125 Cr.P.C. would stand superseded.

3. On the other hand learned counsel for respondent would oppose and submit that presently the proceeding under Section 125 Cr.P.C. is pending and what has been awarded is only interim maintenance looking to the financial crisis and crunch faced by the wife and taking into consideration the income of the husband.

4. This Court, in its order passed today i.e. 12.07.2019 in FAM No.128 of 2019, between the same parties, has held that as the wife is earning Rs.12,000/- per month she is not entitled to maintenance *pendente lite* though she has been held entitled for grant of litigation expenses which have been enhanced to Rs.7,500/-. The factual aspect of the present case is also similar with regard to the aspect of income of the respondent/wife. Therefore, the order of interim maintenance cannot sustained and is, therefore, set aside. This order shall not come in way of the respondent/wife in moving any application in exercise of liberty granted by this Court in its order passed in FAM No.128/2019.

5. A prayer has been made that a direction for mediation may be ordered because the wife is still willing to reside with the husband. Learned counsel for the applicant would submit that he would also be willing to participate in the mediation proceedings.

We order the Family Court to explore all the possibilities of amicable settlement and reunion of the parties through effective mediation.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay