

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 625 of 2019**

- Smt. Priyanka Sahay, W/o Sudip Sahay, Aged About 30 Years, R/o C/o Sushil Kumar Sinha, House No. 843, Subhash Nagar Ward No. 42, Durg. Presently residing at Adarsh Nagar, Street 6F, Zone -02, Durg, Tehsil & District- Durg Chhattisgarh.

---- Applicant

Versus

- Sudip Sahay, S/o Vishnu Sahay, Aged About 34 Years, R/o House No. 50A, Street -Avenue C, Secotr 01, Bhilai, Police Station- Bhilai Bhatti, Tehsil and District- Durg Chhattisgarh.

---- Respondent

For Applicant : Mr. Prasoon Agrawal, Advocate

For Respondent : Mr. Varun Sharma, Advocate.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

12.09.2019

1. Heard on admission.
2. This revision has been filed by the applicant for enhancement of maintenance amount against order dated 19.03.2019 passed by First Additional Principal Judge, Family Court, Durg (C.G.), passed in Miscellaneous Criminal MJC No. 100/2017 whereby, the learned trial Court has allowed the application and granted Rs. 3,000/- per month as maintenance in favour of the applicant.
3. Brief facts of the case are that the applicant filed an application under Section 125 of Cr.P.C. before the family Court Durg, on this ground that the applicant is legally wedded wife of the respondent. The marriage of applicant and respondent was

solemnized on 21.04.2015 as per Hindu Customs and Rituals. The respondent and his family members used to harass and torture the applicant for dowry and the applicant was thrown out of the house of the respondent on 07.06.2015. The applicant went back to her matrimonial house on 21.02.2016 however, mental and physical harassment continued and respondent and his family members also doubted the character of the applicant. On 13.07.2016, the applicant was again sent out of the house of the respondent to bring some amount from her parental house. A report was lodged by the applicant against the respondent and his family members on 14.09.2016. Applicant is dependent on her parents, she is unable to maintain herself and respondent is working as an electrician accountant NTPC-SAIL Co. Ltd. so she demanded Rs. 20,000/- per month as maintenance.

4. In his reply, the respondent (Husband) denied all allegations levelled against him and stated that the applicant is living separately at her own will and is also earning by way of taking tuition classes so she is not entitled for any maintenance.
5. Learned trial Court after hearing counsel for both the parties and appreciating evidence available on record, awarded Rs. 3,000/- per month as maintenance by impugned order so applicant filed this revision for enhancement of the maintenance amount.
6. Learned counsel for the applicant submits that impugned order dated 19.03.2019 is bad in law, perverse, arbitrary and erroneous in nature learned Court below has failed to appreciate the factum that the applicant is solely dependent on her parents.

The learned Court below has failed to appreciate that respondent is a well-educated person. Before marriage, the respondent had told the family of the applicant that he is a post-graduate. The NTPC-SAIL has not provided the details of the salary of the respondent to the applicant and burden to prove his salary depends upon husband.

7. Reliance has been placed on **Criminal R.C. (MD) No. 470/2013, the Madurai Bench of Madras High Court's order dated 14.09.2015 and 2005 SCC OnLine Cal 172 : (2005) 3 CHN 62: 1 HLR 93.**
8. Learned counsel for the respondent supported the impugned order.
9. Heard learned counsel for both the parties and perused the material available on record.
10. Applicant stated in her application that respondent is working in NTPC-SAIL but she did not file any document regarding his service and income of the applicant. Learned trial Court found that applicant did not file any document regarding respondent's income but he is able-bodied person and he is liable to give maintenance to his wife and awarded Rs. 3,000/- per month as maintenance. In her application, applicant stated that respondent's salary is Rs. 45,000/- per month but she did not file any document regarding respondent's salary so she did not prove this fact that the respondent is working on the post of Electrician Accountant in NTPC or SAIL power plant. In his reply and his evidence respondent stated that he is doing labour work

and his father get pension of Rs. 2,200/- per month and he is dependent on his father. The respondent has pleaded that he is doing labour work. In the present situation minimum wages of a person is estimated to be Rs. 300/- per day and that comes out to Rs. 9,000/- per month. A person who is capable to work can earn an amount equivalent to the amount of Rs. 9,000/-. As the minimum wages are Rs. 9,000/- per month and the maintenance granted by the Family Court is Rs. 3,000/- per month for wife that cannot be said to be disproportionate or unreasonable. The ground raised by the revisioner/applicant is not genuine to contest the revision.

11. This order is based on appropriate oral and documentary evidence and accordingly, the revision has no merit and is hereby dismissed at motion stage.

Sd/-
(Rajani Dubey)
Judge

Ruchi