

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 596 of 2018**

Hemant Kumar Deshmukh S/o Late Shri Daman Lal Deshmukh, aged about 34 years R/o Beside Jyoti Optical, Opposite Purohit Lodge, Kachari Road, Apapura, Durg P.S. Tahsil and Distt. Durg (C.G.).

----Applicant**Versus**

1. Smt. Archana Goutam W/o Hemant Kumar Deshmukh, aged about 29 years,
2. Anjaneya Kumar S/o Hemant Kumar Deshmukh, aged about 03 years through Guardian Mother Smt. Archana Goutam
Both R/o Anil Kumar Goutam, Gali No. 02, Shishkak Nager, Durg, P.S. Durg, Tahsil and Distt. Durg (C.G.).
3. Smt. Pushpa Deshmukh W/o Late Shri Daman Lal Deshmukh, aged about 30 years,
4. Purendra Deshmukh S/o Late Shri Daman Lal Deshmukh, aged about 30 years
5. Smt. Chandrakala Deshmukh W/o Shri Tribhuvan Deshmukh, aged about 50 years,
Respondent Nos. 3 to 5 are R/o Beside Jyoti Optical, Opposite Purohit Lodge, Kachari Road, Apapura, Durg P.S. Durg, Tahsil and Distt. Durg (C.G.).
6. Hitesh Kumar Deshmukh S/o Late Shri Devnarayan Singh Deshmukh, aged about 61 years R/o Near the house of Parshad Rajkumar Verma, Shivpara, Durg, Tahsil and Distt. Durg (C.G.).

---- Respondents

For Applicant	:	Mr. Vipin Tiwari, Advocate
For Respondents	:	Ms. Pragya Pandey, Advocate on behalf of Ms. Sunita Jain, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****01/05/2019**

1. Heard on admission.
2. The Applicant is husband of Respondent No. 1. Their marriage was solemnized on 29/11/2012 and out of their wedlock, Respondent No. 2 got birth. On 23/08/2016, Respondent No. 1 made a complaint in Mahila

Thana, Durg and on the said complaint, offence under Sections 498A, 354, 37 & 34 of the IPC and Section 4 of the Prevention of Dowry Act was registered. Thereafter, Respondent Nos. 1 & 2 filed an application under Section 125 of the Cr.P.C for grant of maintenance against the Applicant. Vide order dated 17/07/2017, the learned Family Court, Durg granted Rs. 20000/- monthly interim maintenance in favour of Respondent Nos. 1 & 2. Later on, Respondent Nos. 1 & 2 filed a separate application under Section 12 of the Prevention of Women from Domestic Violence Act, 2005 and in this proceeding, they also preferred an application under Section 23 of the Domestic Violence Act for interim maintenance. Since, they were already getting monthly interim maintenance of Rs. 20,000/-, therefore, vide order dated 16/08/2017, the learned JMFC, Durg dismissed the application for interim maintenance.

3. Being aggrieved with the order passed by the JMFC, Durg an appeal has been preferred by Respondents 1 & 2. Vide impugned order dated 12/04/2018 passed in Criminal Appeal No. 118/2017, the Appellate Court has set-aside the order passed by the JMFC and granted monthly interim maintenance of Rs. 30000/- in favour of Respondents 1 & 2. However, the learned Appellate Court has also directed that the monthly maintenance amount of Rs. 20000/- granted by the Family Court, Durg shall be adjusted in this interim maintenance amount.
4. Counsel for the Applicant submits that Respondent Nos. 1 & 2 were already getting Rs. 20,000/- as monthly maintenance which is sufficient for their livelihood, therefore, further grant of Rs. 10000/- by the Appellate Court is not proper. He further submits that current salary slip of the Applicant shows that presently he is getting monthly salary of Rs.

1,20785.53/-, but this fact has not considered by the learned Appellate Court. He further submits that the learned Appellate Court has ignored the fact that Respondent No. 1 is residing separately without any reasonable cause, therefore, the order of the Appellate Court is not in accordance with law.

5. Counsel for the Respondent supported the impugned order.
6. I have heard counsel for the parties and perused the impugned order.
7. There is no dispute on the point that in the proceeding under Section 125 Cr.P.C., Respondents 1 & 2 are getting Rs. 20000/- monthly maintenance from the Applicant. As contained by the Applicant himself, he is getting monthly salary of Rs. 1,20,785.59/-. There is no evidence on record that presently Respondent No. 1 has any source of income or she is earning somewhere.
8. Considering the above aspects and monthly salary of the Applicant, the interim maintenance of Rs. 30,000/- as granted by the Appellate, is just and proper.
9. Consequently, the revision has no merit and the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge