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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.817 of 2018

Smt. Ekta Brooks, wife of Shri John Jood Brooks, aged about 31 years, resident of C/o Joseph Pasana, Kesar Awas, Quarter No.43, Rajkishore Nagar, District Bilaspur, Chhattisgarh

---- Applicant

versus

John Jood Brooks, son of A. Traver Brooks, aged about 40 years, Occupation 'A' Grade Contractor, resident of Main Road, Old Market, In front of Grace Petrol Pump, Bacheli, District Dantewada, Chhattisgarh, Pin Code 494 553

--- Respondent

and

Criminal Revision No.1191 of 2018

John Jude Brooks, son of A. Trevor Brooks, aged about 40 years, Occupation A Grade Contractor, resident of Main Road, Old Market, In front of Grace Petrol Pump, Bade-Bacheli, P.S. Bacheli, District Dantewada, Chhattisgarh, Pin Code 494 553

---- Applicant

versus

Smt. Ekta Brooks, wife of John Jude Brooks, aged about 31 years, resident of C/o Joseph Pasana, Keshar Awas, Quarter No.43, Rajkishore Nagar, Police Station Sarkanda, District Bilaspur, Chhattisgarh

--- Respondent

For Smt. Ekta Brooks	:	Shri Goutam Khetrapal, Advocate
For John Jude Brooks	:	Shri Shrawan Agrawal, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

21.2.2019

1. Heard on I.A. No.1 of 2018 for condonation of delay of 22 days in filing Criminal Revision No.1191 of 2018. For the reasons stated in the application, it is allowed and delay is condoned.
2. Both the revisions, namely, Criminal Revision No.817 of 2018 and

Criminal Revision No.1191 of 2018 are previously clubbed for hearing. With the consent of Learned Counsel appearing for the parties, the revisions are heard finally. Both the revisions arise out of a common order, therefore, they are decided by this common order.

3. The revisions arise out of the order dated 28.6.2018 passed by the Family Court, Bilaspur in M.J.C. No.382 of 2018.
4. It is not in dispute that Smt. Ekta Brooks is legally wedded wife of John Jude Brooks. Their marriage was solemnised on 4.1.2010. An application under Section 125 of the Code of Criminal Procedure was filed by the wife before the Family Court, Bilaspur against the husband for grant of monthly maintenance of Rs.80,000/-. A separate application for grant of interim maintenance was also moved by her on the ground that she is legally wedded wife of John Jude Brooks. Due to his ill-treatment and cruel behaviour, she is living separately from him. She is suffering from a chronic kidney disease stage 5 and she is required treatment for which Rs.60,000/- per month is required. The husband has sufficient means to give her maintenance. He is an 'A' Grade Contractor. He has a house in 5 acres of land. He has also a farm house of 20 acres in which he does agriculture. He has also many plots and shops which are given on rent. He has also many four-wheelers and two-wheelers. He earns income of Rs.2,50,000/- per month. She has demanded total Rs.80,000/- per month for her treatment and maintenance. Vide the impugned order dated 28.6.2018, the Family Court has granted interim maintenance of Rs.60,000/- per month in favour of the wife.

5. Criminal Revision No.817 of 2018 has been preferred by the wife on the ground that her monthly medical expenditure itself is Rs.60,000/- and the Family Court has granted that much only and has not granted her any other amount with regard to her other daily expenses like food and clothes etc. Therefore, she has prayed that the amount of interim maintenance may be enhanced suitably.
6. Criminal Revision No.1191 of 2018 has been filed by the husband on the ground that the wife is living separately from him without any reasonable cause. Her treatment can be done at Bacheli or at Dantewada and thereby cost of her treatment can be lesser, but she is deliberately getting treatment at Bilaspur. The expenditure for her treatment shown to be Rs.60,000/- per month is exaggerative. His income shown by her is also exaggerative. His old parents are also dependent upon him. He has also liability to make repayment of bank loan. Therefore, he has prayed that the order of grant of interim maintenance of Rs.60,000/- per month may be set aside.
7. I have heard Learned Counsel appearing for both the parties and perused the material available minutely.
8. It is not in dispute that Smt. Ekta Brooks is legally wedded wife of John Jude Brooks and she is residing separately from him at Bilaspur. It is also not in dispute that she is suffering from a chronic disease of kidney and she requires dialysis. Before the Family Court, a certificate was submitted by her which shows that she needs continuous dialysis till replacement of her kidney and yearly expenditure of the dialysis is Rs.7,20,000/-.

9. The husband has admitted the fact that he is a Contractor and as pleaded by the wife he owns movable and immovable properties at Dantewada and Bacheli. The income-tax returns of the husband for the assessment years 2016-17, 2017-18 and 2018-19 are submitted by him. The income-tax return of the assessment year 2016-17 shows his gross total income to be Rs.20,91,864/- and that of the assessment year 2017-18 shows gross total income to be Rs.19,28,984/- and that of the assessment year 2018-19 shows gross total income to be Rs.11,78,675/-. From the above, it is clear that the husband has sufficient income and according to the above income-tax returns filed by him his present yearly income can be considered to be about Rs.12,00,000/-. Apart from this, he also owns sufficient movable and immovable properties. The certificate issued by the doctor shows that the wife needs continuous dialysis and monthly expenditure of the dialysis is about Rs.60,000/-. Some documents have also been filed by the wife before this Court which show that her treatment involves a huge amount. The Family Court, Bilaspur, vide the impugned order dated 28.6.2018, has granted her interim maintenance of Rs.60,000/- per month as her treatment cost. Apart from her treatment cost, she also needs some amount towards her daily expenses.
10. Therefore, looking to the above facts and circumstances of the case, expenditure of essential monthly treatment and daily needs of the wife and financial status of the husband, grant of interim maintenance of Rs.70,000/- per month in favour of the wife would be just and proper. Accordingly, the interim maintenance of the wife is enhanced from Rs.60,000/- per month to Rs.70,000/- per month payable with effect from today.

- 11.** Consequently, Criminal Revision No.817 of 2018 moved by the wife is allowed to the extent indicated above and Criminal Revision No.1191 of 2018 preferred by the husband is dismissed.

Sd/-

(Arvind Singh Chandel)
Judge