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HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 927 of 2019

- Manikant Shrivastava S/o Shri Shiv Narayan Shrivastava, Aged About 40 Years, R/o House No. 2/2, Infront of Markandey Temple, Choubdarpur, Police Station- Talaiya, Bhopal, District- Bhopal, Madhya Pradesh., District : Bhopal, Madhya Pradesh

---- Petitioner

Versus

1. Smt. Rashmi Shrivastava W/o Shri Manikant Shrivastava, Aged About 37 Years, R/o H.No. 46, Sector- 7, New Rajendra Nagar, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Shiv Narayan Shrivastava S/o Late Bala Prasad Shrivastava, Aged About 66 Years, R/o House No. 2/2, Infront of Markandey Temple, Choubdarpur, Police Station- Talaiya, Bhopal, District- Bhopal, Madhya Pradesh., District : Bhopal, Madhya Pradesh
3. Smt. Geeta Devi Shrivastava W/o Shiv Narayan Shrivastava, Aged About 61 Years, R/o House No. 2/2, Infront of Markandey Temple, Choubdarpur, Police Station- Talaiya, Bhopal, District- Bhopal, Madhya Pradesh., District : Bhopal, Madhya Pradesh

----Respondents

For Petitioner – Shri Vivek Kumar Agrawal, Advocate.

For Respondent No. 1 – Shri Shubhank Tiwari, Advocate.

For Respondents 2 and 3 – Shri Palash Tiwari, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-12-2019

Heard.

1. This petition is brought being aggrieved by the order dated 04-09-2018 passed by the First Additional Sessions Judge, Raipur, in Cr. A. No.181/2018 and order dated 25-06-2019 passed by the First Additional Sessions Judge, Raipur in Cr. A.No.106/2019.
2. It is submitted that the respondent No.1 had filed an application under Section 23 of the Domestic Violence Act which was rejected by learned JMFC, Raipur on 16-05-2018. Appeal was filed under Section 29 of Domestic Violence Act which has been decided by the impugned order and the appellate Court has erroneously allowed the appeal and ordered for payment of interim monthly compensation of Rs.4000/- per month to the respondent No.1. It is submitted that learned JMFC had rightly appreciated the facts and documents

presented before it and passed the order of rejection and the appellate Court has committed error in appreciating the same evidence which was present. This fact was also ignored that the applicant/petitioner is already making payment of Rs.6000/- per month on the basis of the order passed by the Family Court in a proceeding under Section 125 of the Cr.P.C. Therefore, it is prayed that the impugned order be set aside.

3. Learned counsel for the respondent No.1 opposes the petition and submits that no error has been committed by the learned appellate Court, the Court of JMFC had not given consideration to the facts presented before it. This fact that the respondent No.1 has been ordered for maintenance from the applicant/petitioner by the Family Court itself establishes that the respondent No.1 is unable to maintain herself. Therefore, there is no infirmity in the impugned order.

4. Learned counsel for the respondents 2 and 3 makes no objection to the petition.

5. The order that has been passed by learned JMFC and upheld by the Sessions Court is interim order for payment of maintenance pendente lite. It is almost one year since that order has been passed and the pending proceeding before the JMFC can be expedited, so that the interim order may be confirmed or rejected as the fact of the case may be at the final stage. Therefore, I do not feel inclined to interfere with the impugned order, hence, the petition is disposed off and learned JMFC is directed to conclude and dispose off the proceeding pending before it under Section 12 of Domestic Violence Act as expeditiously as possible preferably within a period of four months from the date this order is communicated.

As regards the prayer with respect to the order dated 25-06-2019 in Cr. Appeal No.106/2019, it is held that the appellate Court has refused to interfere with the order of the JMFC refusing to stay the proceeding pending, that order

is of interlocutory nature and applicant has liberty to move a repeat application in case it is required and it is so advised by his Counsel. Therefore, no interference is required in this order.

6. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge