

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 678 of 2018**

- P. Rajshekhar S/o Shri P.V. Ramana, aged about 37 years, D.No.38-21-47/1,104 Area in front of Neval Gate, opposite street old police station, 5th town Kancharapalam (Andhra Pradesh)

----Petitioner**Versus**

- P. Neetu W/o Shri P. Rajshekhar, D/o N. Madhaw Rao, aged about 28 years, present R/o Tikrapara, House No.607, Yadav Mohalla, Bilaspur, Tahsil & District Bilaspur (C.G.)

---- Respondent**And****CRR No. 968 of 2018**

- P. Neetu, aged about 30 years, wife of P. Rajshekhar, D/o N. Madhav Rao, Presently residing at House No.607, Yadav Moholla, Tikrapara, Bilaspur (C.G.)

----Petitioner**Versus**

- P. Rajshekhar S/o Shri P.V. Ramana, aged about 37 years, R/o 38-21-47/1, 104 in front of Area Naval Gate, Opposite Street Old Police Station, 5th Town Police Station, Kancharpalam, Vishakhapatnam, Telengana

---- Respondent

For Petitioners	:	Shri Dheerendra Pandey, Advocate in CRR No.678/2018 and Shri K. Rohan, Advocate in CRR No.968/2018.
For Respondents	:	Shri K. Rohan, Advocate in CRR No.678/2018 and Shri Dheerendra Pandey, Advocate in CRR No.968/2018

Hon'ble Smt. Justice Rajani Dubey**Order On Board**

22/08/2019

01. Since the aforesaid revision petitions arise out of same order dated 26.03.2018, they are being disposed of together by this common order.

02. Challenge in the present revision petitions filed under Section 19 (4) of the Family Courts Act read with Section 397/401 of the code of Criminal Procedure is to the order dated 26.03.2018 passed by the Principal Judge, Family Court, Bilaspur, in Miscellaneous Criminal Case No.114/2016 granting Rs.5,000/- per month to P. Neetu (respondent in CRR No.678/2018 and petitioner in CRR No.968/2018) as maintenance.

03. The petitioner/husband in CRR No.678/2018 has filed revision for setting aside the impugned order, whereas the petitioner/wife in CRR No.968/2018 has filed the revision for enhancement of maintenance amount.

04. Briefly stated facts of the case are that petitioner in CRR No.678/2018 and 968/2018 are husband and wife respectively. Their marriage was solemnized on 17.05.2014 at Visakhapatnam. At the time of marriage, husband was working with Punj Loyd company at Singapore and wife was informed that the husband is getting salary of Rs.1,00,000/- per month. He has experience of more than seven years as Mechanical Engineer. After two months of marriage, the husband became absolutely harsh towards wife and in addition to that the family members of the husband started

forcing the wife to bring dowry from her parents. The wife was severely tortured by her in-laws for not bringing dowry from her parents. The parents of the wife owing to their poor financial condition could not satisfy the demand of the husband and his parents. In the year 2015, during the festival of Onam, the husband sent her wife to her paternal house and then refused to take her back unless the father of wife paid Rs.22 Lakh to him. Further case is that, with an utter malafide intention, the husband filed an application under Section 7(1) (A) of the Family Court Act read with Section 12 of the Hindu marriage Act for dissolution of Marriage at Family Court, Visakhapatnam. The allegation made in the application are shamelessly frivolous in nature, whereby the husband has tried to portray the wife has blind and mentally unstable. After loosing all hope of reconciliation on the face of being deserted by the husband, wife filed a police complaint at Thana City Kotwali, Bilaspur under Section 498-A of IPC against husband and his family members. The wife is unable to maintain herself and living with her retired father and ailing mother, therefore, she filed an application under Section 125 of the CrPC demanding Rs.50,000/- per month as maintenance.

05. In reply, the husband denied all the allegations levelled against him and stated that he is unemployed having no source of income. His wife is doing embroidery work and getting Rs.10,000/- per month. He and his family members

never tortured his wife physically and mentally.

06. The learned trial Court, after hearing both the parties and appreciating oral and documentary evidence, allowed the application of Wife and ordered to give Rs. 5,000/- per month as maintenance. Hence, these revision petitions.

07. Learned counsel for the petitioner/husband in CRR No.678/2018 submits that the impugned order dated 26.03.2018 passed by the learned Family Court is bad in law, perverse, erroneous, illegal and contrary to the evidence available on record. He further submits that the learned Family Court ignored the provision under Section 125(4) of CrPC and added that the respondent/Wife is living separately without any reason and as such she is not entitled for any maintenance. The respondent/Wife herself has left the matrimonial house and her father suppressed the fact that respondent/wife is of unsound mind, therefore, respondent is not interested to live in her matrimonial house. He also submits that the learned Family Court only considered the statement of the respondent/wife and that is not a natural justice of law. Therefore, the impugned order may be set aside.

08. Learned counsel for the petitioner/wife in CRR No.968/2018 submits that the learned trial Court awarded meager sum of Rs.5,000/- per month, which is a mockery of the object and purpose of Section 125 CrPC. The learned Family Court has assessed that the respondent/husband is

financially sound, so it has not justified the award of such a meager sum, which cannot be enough to meet even the bare necessities of the applicant. He further submits that the respondent/husband is economically well to do and that the applicant is not able to take care of her own expenses. Thus, the quantum of award is not only arbitrary and without any application of mind, but also contrary to the established principles of reasonableness in according maintenance. He also submits that the learned Family Court erred in awarding the maintenance from the date of the order rather than the date of the application, which is totally unjust and deeply painful for the applicant as it fails to comprehend the grave financial burdens of the applicant suffered during the period of pendency of the application for maintenance. Therefore, the award of maintenance is liable may be enhanced suitably and the same may be computed and paid from the date of applicant not from the date of order.

09. Heard learned counsel for the parties and perused the material on record including the impugned order.

10. Before the trial Court, wife P. Neetu examined herself as AW-1 and husband P. Rajshekhar as NAW-1. The learned Family Court, from para 8 to 14, after appreciating the evidence of both the parties, recorded its finding that the wife is entitled to receive maintenance Rs.5,000/- per month from husband and ordered accordingly.

11. The finding of the learned Family Court granting

maintenance of Rs.5,000/- per month is based on proper appreciation of evidence on record and this Court is of the considered opinion that the order dated 26.03.2018 passed by the Court below being fully justified, do not call for any interference in revision petitions.

12. Accordingly, both the revision petitions have no substance and it is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE