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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Revision No.483 of 2017**

Order Reserved on : 6.12.2018

Order Passed on : 5.3.2019

Jonathan Richard Thiyagrajan, S/o Richard Thiyagrajan, aged about 43 years, Wing Commander (Joint Director), Office Address D.T.E. of Aerospace Safety Air Headquarters, West Block R.K. Puram, New Delhi 110066, Mess Address Akash Air Force Office Mess Dr. Jakir Hussain Marg, New Delhi 110003, Presently residing at Airforce Station, Palam, Delhi Cant, 110010

**---- Applicant**

**versus**

1. Smt. Tanubha Thiyagrajan, W/o Jonathan Richard Thiyagrajan, aged about 39 years, D/o Shri E.J. Shrivastava, R/o 15 Adarsha Nagar, Borshi Road, Durg, District Durg, Chhattisgarh
2. Jason Thiyagrajan, S/o Jonathan Richard Thiyagrajan, aged about 11 years,
3. Ku. Anika, D/o Jonathan Richard Thiyagrajan, aged about 06 years,

No.2 & 3 are minor, through natural guardian mother Smt. Tanubha Thiyagrajan,

No.2 & 3 are R/o 15, Adarsha Nagar, Borshi Road, Durg, District Durg, Chhattisgarh

**--- Respondents**

**and**

**Criminal Revision No.525 of 2017**

1. Smt. Tanubha Thiyagrajan, W/o Jonathan Rechard Thiyagrajan, aged about 39 years, D/o Shri E.J. Shrivastava, R/o 15 Aadarsh Nagar, Borsi Road, Durg, District Durg, Chhattisgarh
2. Jesan Thiyagrajan, S/o Jonathan Rechard Thiyagrajan, aged about 11 years,
3. Kumari Anika, D/o Jonathan Rechard Thiyagrajan, aged about 06 years,

Applicants No.2 and 3 both are minors through their legal guardian mother Applicant No.1 Smt. Tanubha Thiyagrajan, both are R/o 15 Aadarsh Nagar, Borsi Road, Durg, District Durg, Chhattisgarh

**---- Applicants**

**versus**

WG. CDR. Jonathan Rechard Thiyagrajan (Joint Director) Office Address D.T.E. of Aerospace Safety Air Headquarters, West Block

R.K. Puram, New Delhi 110066, Mess Address Akash Airforce, Mess  
Office Dr. Jakir Hussain Road, New Delhi 110003

--- Respondent

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For Jonathan Richard Thiyagrajan : Shri Rahul Tamaskar, Advocate  
For Smt. Tanubha Thiyagrajan and children : Shri T.K. Jha, Advocate  
Parties were also present before this Court on 6.12.2018

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**Hon'ble Shri Justice Arvind Singh Chandel**

**C.A.V. ORDER**

1. Since both the revisions arise out of a common order dated 4.3.2017, they are decided by this common order.
  
2. Both the revisions have been preferred against the order dated 4.3.2017 passed by the Family Court, Durg in M.Cr.C. No.702 of 2015, whereby the Family Court has allowed the application under Section 125 of the Code of Criminal Procedure submitted by the wife and children and granted monthly maintenance of Rs.20,000/- in favour of the wife, Rs.15,000/- in favour of the son and Rs.15,000/- in favour of the daughter, total Rs.50,000/-.
  
3. Facts of the case, in brief, are that marriage between Jonathan Richard Thiyagrajan (husband) and Smt. Tanubha Thiyagrajan (wife) was solemnised on 18.10.2002 and out of their wedlock, son Jesan and daughter Anika took birth. As per the pleadings of the wife, after the marriage, she started living with the husband and her in-laws at Delhi. There she was being subjected to harassment for demand of dowry by the husband and in-laws. In the year 2006, the husband was transferred to Bangalore. There also, the husband subjected her to harassment and cruelty and day by day her ill-treatment by the husband increased. Thereafter, she made

a complaint against the husband to his higher officers on 4.11.2011 regarding ill-treatment being given to her by the husband. The higher authorities of the husband gave him a warning that he should behave properly with the wife, but the husband did not take care of the warning. In the month of December, 2014, the husband took both the children to Mumbai without telling her. After return to Chandigarh, the husband again beat her. At that time, posting of the husband was at Chandigarh. Thereafter, he was transferred to Delhi. But, he did not take her and the children with him to Delhi. Thereafter, the wife got a notice to vacate the house, therefore, she vacated the house of Chandigarh and came to Durg along with her children at her maternal house. Thereafter, the husband did not take care of them. The husband is a Wing Commander in Indian Force and is getting monthly salary of about Rs.1,80,000/-. The wife is unable to maintain herself and her children. The husband did not take care of to maintain them. Therefore, she filed the application before the Family Court for their maintenance.

4. The husband, in his reply, pleaded that the wife is residing separately from him without any reasonable cause at her maternal house. She had always been threatening him to implicate him in a false case and she had made a false complaint against him to his higher officers in his office. She is living at her maternal house at her own will. Therefore, she is not entitled to get any maintenance. She is a well educated woman and is able to maintain herself.
5. The Family Court, after taking evidence of both the parties on record, vide the impugned order dated 4.3.2017, allowed the application under Section 125 of the Code of Criminal Procedure

and granted maintenance to the wife and children as stated above in second paragraph of this order.

6. Criminal Revision No.525 of 2017 has been preferred by the wife and children on the ground that looking to the financial status of Jonathan Richard Thiyagrajan, the maintenance granted by the Family Court is on lower side and deserves to be enhanced suitably.
7. Criminal Revision No.483 of 2017 has been moved by Jonathan Richard Thiyagrajan on the ground that the quantum of monthly maintenance granted by the Family Court is exorbitant and beyond the known source of his income. The Family Court has wrongly relied upon the documents, particularly, Ex.P49 and P50. The monthly salary as ascertained to be Rs.1,82,482/- is contrary to the records. His net salary is only a small fraction of the mentioned figure. The Family Court has also failed to appreciate that the wife is living separately from him without any reasonable cause. Therefore, she is not entitled to get any maintenance. The monthly maintenance of Rs.50,000/- is excessive, onerous and beyond the known source of his income and, therefore, the same deserves to be reduced.
8. I have heard Learned Counsel appearing for the parties and perused the record with due care.
9. It is not in dispute that Smt. Tanubha Thiyagrajan is legally wedded wife of Jonathan Richard Thiyagrajan and Jesan and Anika are their legitimate children. It is also not in dispute that the wife along

with the children is presently residing separately from the husband. Before the Family Court, the wife examined herself as Applicant Witness No.1 and her father E.J. Shrivastava as Applicant Witness No.2. The husband examined himself as Respondent Witness No.1. The wife submitted as many as 48 documents in her support. The husband did not submit any document in his support before the Family Court.

10. In her statement before the Family Court, the wife has categorically stated that after the marriage, the husband used to abuse her and used to treat her as a maid. He also used to beat her. On 4.11.2011, she made a complaint against him to his higher officers. At that time, he was inculcated. She has further stated that when they were residing at Chandigarh, he was transferred to Delhi. He left them at Chandigarh and went alone to Delhi. Thereafter, he did not take them with him to Delhi. She received a notice to vacate the house of Chandigarh. Even thereafter, he did not take them with him. Thereafter, she vacated the house of Chandigarh and returned to Durg. The husband, in his cross-examination, in paragraph 12, has admitted the fact that on the complaint made by the wife, he was called for counselling by the department. He has also admitted the fact that the wife had got admitted the children at school situated at Chandigarh. He has also admitted the fact that from June, 2015, the wife is residing separately from him at her maternal house. There is no statement on record made by the husband that he ever took social or legal step to keep the wife with him nor has any document been filed by him in this regard. Though the husband has stated that the wife has kept the children at Durg along with her without his consent, he has taken any legal action in

this regard there is no document on record to show seeking custody of children by him. From the statements of both the parties, it is also clear that the wife had also made a complaint against the husband to his higher officers. As pleaded by the husband that the complaint was false, but the husband has not examined any of those higher officers before the Family Court to prove that the said complaint was false. Thus, from the evidence available on record, it is clear that the wife is residing separately from the husband with sufficient cause. Therefore, the finding of the Family Court in this regard is commensurate to the evidence available on record.

11. As regards the quantum of maintenance, it is not in dispute that the husband is working as a Wing Commander. In paragraph 19 of his cross-examination, he has admitted the fact that as per the document Ex.P49, since June, 2015 to May, 2016, his gross monthly pay was Rs.1,82,412/-. From perusal of the said document, it is clear that gross pay of the husband for May, 2016 was Rs.1,82,412/-. Though as contained in Ex.P49, there had been variation in the gross monthly pay of the husband for the whole year, the minimum gross pay of the husband for the month of June, 2015 was Rs.1,49,488/-. The husband has not submitted his any salary-slip before the Family Court nor has he disclosed his net monthly salary. After deductions, how much salary is he getting, there is no document available on record in this regard. In the circumstance, the monthly salary of more than Rs.1,50,000/-, as assessed by the Family Court in paragraph 20 of the impugned order, can be considered to be in accordance with the evidence on record.

12. Son Jesan is aged about 14 years and daughter Anika is aged about 9 years. They are studying in Delhi Public School, Durg. Sufficient documents are available on record regarding their expenditure of studies. Looking to the financial status of the husband, social status of the parties, age of the children and present price index, the grant of monthly maintenance of total Rs.50,000/- by the Family Court in favour of the wife and children is just and proper and the same does not require any interference for enhancement or reduction.
13. Consequently, both the revisions are dismissed.
14. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-  
**(Arvind Singh Chandel)**  
**Judge**