

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1360 of 2018**

- Lakshya Dubey (Chakraborty), W/o Abhijeet Chakraborty, D/o Shri Neeraj Dubey, aged about 19 years, R/o B-25 Kranti Nagar, Bilaspur. P.S. Tarbahar, Tah. & Dist. Bilaspur (C.G.)

---- Applicant**Versus**

- Abhijeet Chakraborty, S/o Vinay Chakraborty, aged about 28 years, R/o Vasundhara, Street No. 3, Rajeev Vihar, Loyola Schol Raod, Lingiyadih, P.S. Sarkands, Tah. & Dist. Bilaspur (C.G.)

---- Respondent

For Applicant	:	Mr. Ravindra Sharma, Adv.
For Respondent	:	Mr. N.K.Vyas, Adv.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

25.07.2019

1. The applicant has preferred this revision against the order dated 09.10.2018 passed by learned Family Court, Bilaspur (C.G.) in Miscellaneous Criminal Case No. 617/2018, whereby the learned Family Court has allowed the application under Section 125 Cr.P.C. and granted Rs. 2,000/- per month as maintenance in favour of the applicant. This revision is filed for enhancement of the maintenance amount.

2. This is not in dispute that applicant and respondent are legally married as husband and wife on 03.10.2017 and applicant is living separately with the husband/respondent.

3. Before the Family Court, applicant filed an application under Section 125 Cr.P.C. on the ground that after few months of marriage, applicant was subjected to cruelty and was physically and mentally tortured by her husband and her in-laws, showing their dissatisfaction

towards the dowry and started further demanding Rs. 20 Lakhs. The applicant was forced to leave the in-laws house and take shelter in her parental house. Applicant has no source of earning for livelihood. The respondent is owner of body painting shop and earning more than Rs. 50,000/- per month. So, she demanded Rs. 25,000/- per month for her maintenance. Respondent/husband had not appeared before the learned Family Court, therefore, the learned Family Court has proceeded ex-parte against the respondent. Hence, this revision petition.

4. Learned counsel for the applicant submits that the impugned order dated 09.10.2018, passed by learned Family court is improper and not sustainable in the eyes of law. Learned Family Court committed gross error in not appreciating the income of the husband/respondent. The respondent was ex-parte before the Court below and the averment regarding the income of the respondent is un-rebutted. Learned counsel for the applicant further submits that the monthly income of respondent is more than Rs. 50,000/-, on the other hand, the applicant is college going student and she has no sufficient means for her education and livelihood. Therefore, order dated 09.10.2018 is liable to be modified and the maintenance amount may be enhanced suitably.

5. Learned counsel for the respondent supported the impugned order and submitted that the maintenance amount awarded by the learned Family Court is just and proper. Income of respondent is too low to pay Rs. 2,000/- per month for maintenance.

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

7. Before the Family Court, respondent did not appear and the learned trial Court found that evidence of applicant was un-rebutted, and allowed this application in favour of the applicant. The applicant stated in her Court statement that income of the husband/respondent is Rs. 50,000/- per month but no documentary evidence has been produced in this regard. But it can be presumed that respondent

earns Rs. 8,000 -10,000/- per month. Thus, considering the aforesaid factual aspect of the matter, looking to the earning and social status of both the parties and further considering the present inflation in commodity, maintenance amount granted by learned Family Court is so meager, therefore, applicant is entitled for enhancement of maintenance amount.

8. In the result, the impugned order of the Family court is modified and it is directed that the respondent/husband shall pay Rs. 3,500/- per month towards maintenance of the applicant, with effect from today.

9. Accordingly, the revision is partly allowed to the extent indicated herein above.

Sd/-
(Rajani Dubey)
JUDGE