

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 496 of 2020

Vivek Singhaniya S/o Subhash Singhaniya Aged About 27 Years R/o Sada Colony, Behind Petrol Pump, Main Road Jamnipali, Korba, District Korba Chhattisgarh.

---- Applicant

Versus

Smt. Jyoti Agrawal W/o Vivek Singhaniya Aged About 24 Years D/o Anand Agrawal, R/o Lochan Nagar, Raigarh, Tahsil And District Raigarh Chhattisgarh.

---- Respondent

For Applicant : Mr. Jitendra Gupta, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-11-2020

1. This revision petition has been brought challenging the order dated 17.3.2020 passed in Misc. Criminal Case No. F-89 of 2016 by the Family Court, Raigarh granting the maintenance of Rs.5,000/- per month to the respondent under Section 125 of the Cr.P.C.
2. It is submitted by counsel for the applicant that it was brought to the notice of the learned Family Court that there is one order of maintenance standing against the applicant passed by the learned Judicial Magistrate First Class in the case under the Domestic Violence Act, but it was not considered in the impugned order for the reason that the copy of that order was not produced, therefore, that statement was not taken into consideration in the impugned order passed and it is stated that the present order be set aside and the case be remanded back for reconsideration.
3. Notice has been issued to the respondent but there is no representation on her behalf.

4. Considered the submissions and also perused the documents present on record which includes the order of the Judicial Magistrate First Class/ CJM, Raigarh, by which the order was passed for grant of interim maintenance of Rs.5,000/- per month to the respondent under Section 26 of the Protection of Women from Domestic Violence Act, 2005.
5. The Supreme Court in the case of **Rajnesh vs. Neha and Another** in **Criminal Appeal No. 730 of 2020** decided on 4.11.2020 has given extensive directions regarding the matter to be taken into consideration for grant of maintenance, which includes that if maintenance is granted to the wife under Section 26 of the Protection of Women from Domestic Violence Act, 2005, then that has to be taken into consideration in the case of maintenance filed by the same wife before another forum under the provisions of this Act. Looking to the direction that has been issued in the case of **Rajnesh vs. Neha and Another** (supra) and also looking to the present situation that the respondent has been benefited by the order granted for maintenance which has not been taken into consideration by the learned Family Court, the petition is allowed and the impugned order is set aside. However, the proceedings before the learned Family Court is restored and the case is remanded to the learned Family Court with a direction to afford an opportunity to the petitioner to file additional documents and also opportunity to lead evidence if it is necessary similarly, the respondent's side be also provided opportunity and thereafter, pass an appropriate order on conclusion of the proceedings.

Sd/-
(**Rajendra Chandra Singh Samant**)
Judge