

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 50 of 2020

- Smt. Anandita Sahu W/o Praveen Kumar Sahu, Aged About 27 Years, R/o Through Dr. Chandrakant Sahu, Sector - 3, Street - 1, Professor Colony, Tahsil and District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
Applicant/

---- Petitioner

Versus

- Praveen Kumar Sahu S/o Shri Naresh Kumar Sahu, Aged About 29 Years, R/o - 1. Qr. No. 201/13, Kharun, Rail Vihar Colony, Station Road Raipur, Tahsil and District Raipur Chhattisgarh. R/o - 2. Office - Praveen Kumar Sahu ACIO II Subsidiary Intelligence Bureau (MHA) Bharat Sarkar, Circle Road, Churches Colony, Dimapur (Nagaland). Presently Residing At Praveen Kumar Sahu G.B. Sensors Qr. No. 27 H. Churches Colony, Dimapur (Nagaland).
Non-applicant/

---- Respondent

For Petitioner – Shri Hanuman Prasad Agrawal, Advocate.

For Respondent – Shri Rajkumar Pali, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-03-2021

1. This criminal revision is brought against the impugned order dated 03-12-2019 passed in Case No. 277/2018 pending before the Court of First Additional Principal Judge, Family Court, Raipur praying for enhancement of the interim maintenance granted in the impugned order.
2. It is submitted that the petitioner is wife who has filed an application under Section 125 of the Cr.P.C. before learned family court, which was earlier decided ex-parte in her favour by order dated 19-03-2019 and she was granted monthly maintenance of Rs.15,000/-. The respondent then filed an application under Section 126 (2) of the Cr.P.C. for setting aside the ex-parte order, which was allowed and the ex-parte order was set aside. Subsequent to that, order has been passed on application for interim maintenance, in which the interim maintenance granted is on lower side. Respondent is an employee of Intelligence Bureau and he is getting gross salary of Rs.96,450/- per month. Hence, looking

to his capacity and also looking to the status this applicant enjoyed before living separately, the interim maintenance should have been atleast what was granted to her in the ex-parte final order. Therefore, it is prayed that the revision petition be allowed and relief be granted accordingly.

On behalf of the petitioner reliance has been placed on the judgment of Delhi High Court in Crl. Rev. P. 751/2018 delivered on 06-12-2019 (Sh. Arun Vats vs. Ms. Pallavi Sharma & another) and on another judgment delivered on 29-05-2019 by Delhi High Court in Crl. Rev. P. 456/2015 (Babita Bisht Vs. Dharmender Singh Bisht).

3. Learned counsel for the respondent submits that the application of the petitioner is not maintainable under Section 19(4) of the Family Courts Act. The petitioner/applicant herself is a practicing Advocate, who is capable to earn her livelihood and also she is residing separately without any sufficient cause. Learned family court has not committed any error in passing the impugned order. Therefore, it is prayed that the application be rejected.

4. Considered on the submissions. At present there appears to be no dispute that the petitioner/applicant is wife of the respondent and that the respondent is an employee of Intelligence Bureau drawing gross salary of about Rs.96,000/- per month. His net salary may be less after deduction to be made in the salary.

It is a ground of the petitioner/applicant that she is unable to maintain herself which may be contested in the proceeding by the respondent side. Being qualified as Advocate by itself is not sufficient to draw any conclusion regarding her ability to earn livelihood. Similarly, the ground of the petitioner living separate is also required to be examined in proceeding, if the respondent is contesting the same and no conclusion can be drawn at this stage, when the consideration is only for grant of interim maintenance.

5. Section 19 of the Family Courts Act provides for appeal, but sub-section

4 of the same provides that High Court has power to examine any order of the family court passed under the Code of Criminal Procedure, for the purpose of satisfying the correctness, legality or propriety of the order. These words are akin to the words in Section 397(1) of the Cr.P.C. Therefore, in fact, the Section 19(4) of the Family Courts Act provides for exercise of revisional jurisdiction by the High Court.

6. After considering on the submissions and the objection raised, I am of this view that the petitioner deserves to be granted enhanced interim maintenance. Hence, this revision petition is allowed. The impugned order is modified and it is ordered that the respondent shall now make payment of Rs.12,000/- per month to the petitioner as interim maintenance until final disposal of the proceeding under Section 125 of the Cr.P.C. pending before learned family court.

Sd/-
(Rajendra Chandra Singh Samant)
Judge