

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CRR No. 820 of 2014**

1. Smt. Anjani Tiwari W/o Lalit Tiwari Aged About 40 Years
2. Ku. Tiyoganiya @ Yoginiya Tiwari D/o Lalit Tiwari Aged About 18 Years

Both R/o Laxman Nagar, Chhotabazar, Near Telghani Naka, PO Raipur, PS Gudhiyari, Raipur, Tah. and Distt. Raipur C.G.

---- Applicants**Versus**

Lalit Tiwari S/o Late Prannath Tiwari Aged About 50 Years R/o Village Uparwara, Post Pffoce and PS Abhanpur, Tah. Abhanpur, Distt. Raipur C.G.

Office Address - Through Chief Executive Officer, Janpad Office, Abhanpur, Distt. Raipur C.G

----Non-applicant

 For applicants : Mr. Shivendu Pandya, Adv.
 For non-applicant : Mr. Atul Pandey, Adv.

Hon'ble Shri Justice N.K. Chandravanshi
Order on Board

26-8-2021

1. This criminal revision has been preferred by the applicants against order dated 11-9-2014 passed by the learned Principal Judge, Family Court, Raipur (CG) in MJC (Cr.) No. 264/2011 (Smt. Anjani Tiwari and another -v- Lalit Tiwari) by which the trial court partly allowed the application filed by the applicants, awarded maintenance of Rs. 1,000/- per month to applicant No. 1/ wife and declined to grant any maintenance to applicant No. 2/ daughter.

2. The applicant No. 1/wife (henceforth referred to as 'wife') is legally wedded wife of non-applicant/husband (henceforth referred to as 'husband'), they have one son and one daughter from their wedlock. When wife was residing with husband, he frequently used to torture her by beating and ousting her from his house, after consuming liquor. Since about 2001, the husband committed marpeet with his wife and daughter, and ousted them from his house. Thereafter, they are living separately. Since the non-

applicants have no means of their livelihood, therefore, they filed application under Section 125 of the Code of Criminal Procedure, 1973 (in brevity 'Cr.P.C.'). In reply, husband denied the allegation stating that bad character of wife was proved, thereafter, she herself had left the house due to guilty conscience. He is a 4th grade employee having so many family responsibilities. He is ready to maintain the applicants by keeping them with him, therefore, applicants are not entitled to get maintenance.

3. Learned Judge, Family Court, after affording opportunity of hearing to both the parties, vide impugned order granted Rs. 1,000/- per month maintenance to wife, but declined to grant any maintenance to applicant No. 2/daughter.

4. At the outset, learned counsel for the applicants submits that he does not want to press this revision in respect of applicant No. 2 because she is married and living with her husband. He further submits that non-applicant/ husband is posted as peon in the office of Janpad Panchayat, Abhanpur and was getting Rs. 13,175/- per month salary which is clear from Ex. A-2. Despite that, learned Judge has granted meager amount of Rs. 1,000/- per month for maintenance of wife. Therefore, maintenance amount awarded to wife may be suitably enhanced.

5. Learned counsel for the respondent/husband submits that the husband also has responsibilities to maintain his deserted sister and his son, and also family of his deceased brother. Therefore, looking to these responsibility of the husband, learned trial Court has rightly granted maintenance of Rs. 1,000/- per month to the wife. It does not call for any interference by this Court.

6. The applicant/wife (AW 1) has stated in her deposition recorded in Court that about ten years ago from filing of maintenance application, the husband had ousted her by committing marpeet, thereafter she is living separately. She has further stated that divorce petition filed by the husband was dismissed by the Family Court. Her statement has been

corroborated by her cousin brother Komal Pandey (AW 2). Husband Lalit Tiwari (NAW 2) has stated in his statement that applicant/wife was living in adultery, Genduram Sahu (NAW 2) has also been examined, but they could not prove that the applicant/wife was living in adultery, on the other hand, levelling such allegation of adultery also supports the fact that the husband does not want to keep his wife with him. Nothing could be elicited from the cross-examination of applicant/wife Anjani Tiwari (AW 1) and her brother Komal Pandey (AW 2) in this regard against the wife. Therefore, learned trial Court has rightly decided that the applicant/wife has sufficient reasons to live separately from her husband.

7. Memo Ex. A-2 dated 5-12-2011 issued by the Chief Executive Officer, Janpad Panchayat, Abhanpur shows that the non-applicant is working as peon in the office of Janpad Panchayat, Abhanpur and he was getting monthly salary of Rs. 13,175/- in the year 2011.

8. Looking to the salary of husband, and taking into consideration rise in the cost of living, price index and basic needs of human being i.e. food, shelter, etc., it would be appropriate to enhance the maintenance amount from Rs.1,000/- per month to Rs. 4,000/- per month, which shall be payable to the wife by 15th day of every month, and further considering the facts and circumstances of the case, the applicant/wife would be entitled for the enhanced amount of maintenance from the date of impugned order w.e.f. 11-9-2014. Ordered accordingly.

9. Consequently, instant criminal revision is allowed to the extent indicated herein above.

Sd/-
N.K. Chandravanshi
Judge