

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 45 of 2021**

Dr. Akanksha Sharma, W/o Abhinav Sharma, aged about 28 years, R/o House No. 36, Gitanjali Vihar, Nehru Nagar, P.S. - Civil Line, Distt. Bilaspur (C.G.)

---- Applicant**Versus**

Abhinav Sharma, S/o Anand Sharma, aged about 32 years, Brand Manager Cipla Ltd. (Wrongly recorded as Shipla in Order Sheet), 289, Bellasis Road, Opposite Sahil Hotel Central, Navjeevan Society, Dalal Estate Central, Mumbai, (Maharashtra), 400008

Permanent R/o – Plot no. 8, Krishna Sakha Society, Rohni Puram, Dindayal Upadhyay Nagar, P.S. - Danganiya, Distt. Raipur (C.G.)

----Non-applicant

For Applicant	: Mrs. Indira Tripathi, Advocate.
For Non-applicant	: Mr. Goutam Khetrpal, Advocate.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****23.07.2021**

(1) The proceedings of matter have been taken-up through Video Conferencing.

(2) This revision is brought by the applicant/wife against the order dated 17.12.2020 passed by Principal Judge, Family Court, Bilaspur in Misc. Criminal Case No. 488/2019, whereby the application filed by the applicant/wife under proviso to sub-Section (1) of Section 125 of the Code of Criminal Procedure, 1973 (henceforth 'the Code') claiming interim maintenance of ₹ 60,000/- per month has been partly allowed.

(3) Necessary facts for disposal of this revision are that the marriage between the parties was solemnized on 4.2.2018. After marriage they were living together and on 6.2.2019 applicant/wife came back to her parental house, since then she is living with her parents. Thereafter, applicant/wife filed an application under Section 125 of the Code for her maintenance stating, *inter alia*, that respondent/husband is working on the post of Senior Brand Manager in Cipla Limited, Mumbai and his annual package is ₹ 15,00,000/- and also he earned ₹ 5,00,000/- per month from his ancestral immovable property *whereas* she (wife) has no source of income for her livelihood, therefore, she has requested to grant her maintenance amount, as mentioned in paragraph two of this order, till disposal of this case. She has also filed an application to grant her interim maintenance amount of ₹ 60,000/- during pendency of the case.

(4) Learned Principal Judge, Family Court, Bilaspur, vide its impugned order dated 17.12.2020, has partly allowed the application mentioning that cogent evidence/documents have not been filed with regard to the said income of the respondent/husband whereas respondent/husband has stated in his affidavit that presently his income is only ₹ 10,000/- to ₹ 15,000/- and, therefore, ₹ 5,000/- per month as interim maintenance has been granted in favour of the applicant/wife from the date of passing of the impugned order.

(5) Being aggrieved and dissatisfied with the impugned order, instant revision has been filed by the applicant/wife for enhancement of the amount of interim maintenance awarded by the learned Family Court.

(6) Learned counsel appearing for the applicant/wife would submit that earlier the respondent/husband was working on the post of Senior Brand Manager in CIPLA Limited, Mumbai and his annual package was of ₹ 15,00,000/- but he has resigned from the said post from July, 2019 just to avoid giving interim maintenance to the applicant/wife. She would further submit that presently the respondent/husband is working as Group Product Manager in Abbott India Limited, Mumbai from where he is getting huge / handsome amount as salary.

She would draw attention of this Court to the Income Tax Returns of respondent/husband for the assessment years 2017-18, 2018-2019 and 2020-2021 wherein annual gross income of the respondent/husband is shown as ₹ 7,25, 504/-, ₹ 8,50,692/- & ₹ 4,64,540/-, respectively. She would further submit that respondent/husband is the only son of his parents and his parents are having agricultural land and other immovable properties, from which they earned ₹ 5,00,000/- per annum. She would also submit that applicant/wife is doctor having qualification of B.D.S. and before marriage she was working in Tripathi Dental Clinic and Implant Center, Bilaspur but on account of marriage, she has to leave the said job and presently she is unemployed and she is not having any source of income for her livelihood but learned Family Court, without appreciating and considering the aforesaid facts, has granted meager sum of ₹ 5,000/- per month, that too from the date of passing of the impugned order, as an interim maintenance in favour of the applicant/wife, therefore, she prayed for enhancement of the aforesaid amount of interim maintenance from the date of filing of application because the learned Family Court has granted the aforesaid amount of interim maintenance from the date of passing of the impugned order.

(7) Per contra, learned counsel for the respondent/husband would submit that due to cases filed by the applicant/wife against the respondent/husband, Cipla Limited Company Mumbai asked him for his resignation, therefore, from 31.7.2019, he has resigned from there and at present he is not working in any of the Company and it has wrongly been stated that presently the respondent/husband is working as Group Product Manager in Abbott India Limited, Mumbai from where he is getting huge/handsome amount as salary. The document filed by the applicant/wife pertaining to this effect is not true and they have no evidentiary value. He submits that presently he is not doing any permanent job whereas by doing work, relating to marketing, he used to earn only ₹ 10,000/- to ₹ 15,000/- per month and he is not having any immovable property registered in his name. He further submits that applicant/wife is doctor having qualification of BDS and she was working in Tripathi Dental Clinic and

Implant Center, Bilaspur from April, 2015 to January, 2018, presently she is doing medical practice and earns about ₹ 60,000/- to ₹ 70,000/- per month. She is having two bank accounts *first* in State Bank of India, Bilaspur and *second* in UCO Bank, Bilaspur wherein she has made several transactions of huge amount. He would further submit that since she is qualified doctor having BDS degree and also doing medical practice and earning huge amount, therefore, she is not entitled to get interim maintenance. He has placed reliance upon the judgment of the Delhi High Court in the matter of **K.N. v. R.G.** reported in **2019 SCC OnLine Del 7704** and judgment of the Supreme Court in the matter of **Rajnesh v. Neha & another** reported in **2021 (2) SCC 324** and various other pronouncements of judgments of the High Court and Hon'ble Supreme Court, in support of his submission.

(8) I have heard learned counsel appearing for the parties at length and perused the documents filed by both the parties including impugned order with utmost circumspection.

(9) Facts of the case and documents adduced by both the parties show that respondent/husband has already resigned his services from Cipla Limited, Mumbai on 31.07.2019.

(10) The documents filed by applicant/wife relating to respondent's/husband job as Group Product Manager in Abbott India Limited, Mumbai is whatsapp copy and thus it has no evidentiary value. For the sake of argument, if it is supposed to be true, then also what income, he is getting from the said Company, has not been stated and no document has been filed to that effect whereas respondent/husband has denied that he is working in the said Company, therefore, only on the basis of whatsapp copy, it cannot be accepted that presently respondent/husband is working as Group Product Manager in Abbott India Limited, Mumbai.

(11) Applicant/wife has filed copy of Income Tax Returns of respondent/husband for the assessment years 2017-18, 2018-2019 and 2020-

2021 wherein annual gross income of the respondent/husband is shown as ₹ 7,25,504/-, ₹ 8,50,692/- & ₹ 4,64,540/-, respectively but it seems that income shown in the income tax return of respondent/husband relates to the time when he was working in Cipla Limited, Mumbai, the applicant/wife has not produced any document of his such present income. Documents relating to immovable properties show that these properties are registered in the name of his father. In affidavit also, he has mentioned that neither he is having any immovable property nor working in any company whereas presently whatever work, he gets pertaining to marketing, he does and thereby he is earning ₹ 10,000/- ₹ 15,000/-. Meaning thereby, there is no document relating to present income of the respondent/husband has been filed by the applicant/wife to demonstrate that he is earning more than the afore-stated income.

(12) It is not in dispute that applicant/wife is qualified BDS doctor and having working experience of about three years (April, 2015 to January, 2018) in Tripathi Dental Clinic and Implant Centre, Bilaspur. Looking to her qualification and experience, she can get job or she herself could do medical practice and thereby earns money for his livelihood.

(13) In case of interim maintenance of well qualified wife, legal position, as culled out by various judicial pronouncements relating to maintenance *pendente lite* are as under :-

(14) In case of **K.N. v .R.G.** reported in **2019 SCC OnLine Del 7704**, considering this issue Hon'ble High Court of Delhi has held as under :-

“8.....No doubt it is true that as per law every able-bodied husband has a duty to maintain his wife, who is unable to maintain herself. The law as has developed, does not permit any one to take a stand that the grant of maintenance should be only to fulfil the basic needs of food or clothing etc. but mandates that the maintenance should be such that the other party should be able to live with a status and standard as is being enjoyed by the party granting maintenance. The purpose of providing

maintenance is to secure such facility and a life style which the wife enjoyed while living in the consortium. At the same time, there is a whole plethora of judgments which lay down that if a spouse is qualified and has a capacity to earn then the law does not expect that such a spouse would sit idle and burden the other spouse with maintenance. [Section 24](#) is not meant for creating an army of idle persons and law does not help indolent. In the case of [Mamta Jaiswal vs. Rajesh Jaiswal](#) reported at 2000 (3) MPLJ 100, the Madhya Pradesh High Court has held that everyone has to earn for the purpose of maintaining himself or herself or at least make a sincere effort in that direction. If this criteria is not applied, there will be a growing tendency amongst the litigants to prolong such litigation and to milk out the adversary. This cannot be the aim of [Section 24](#) as the same has been enacted for needy persons who in spite of sincere efforts are unable to support themselves but are required to fight a litigation. The relevant para from the said judgment is as under:

"6. In view of this, the question arises as to in what way Section 24 of the Act has to be interpreted. Whether a spouse who has capacity of earning but chooses to remain idle, should be permitted to saddle other spouse with his or her expenditure? Whether such spouse should be permitted to get pendente life alimony at higher rate from other spouse in such condition? According to me, Section 24 has been enacted for the purpose of providing a monetary assistance to such spouse who is incapable of supporting himself or herself in spite of sincere efforts made by him or herself. A spouse who is well qualified to get the service immediately with less efforts is not expected to remain idle to squeeze out, to milk out the other spouse by relieving him of his or her own purse by a cut in the nature of pendente life alimony. The law does not expect the increasing number of such idle persons who by remaining in the arena of legal battles, try to squeeze out the adversary by implementing the provisions of law suitable to their purpose. In the present case Mamta Jaiswal is a well qualified woman possessing qualification like M.Sc. M.C. M.Ed. Till 1994 she was serving in Gulamnabi Azad Education College. It impliedly means that she was possessing sufficient experience. How such a lady can remain without service? It really puts a big question which is to be answered by Mamta Jaiswal with sufficient cogent and believable evidence by proving that in spite of sufficient efforts made by her, she was not able to get service and, therefore, she is unable to support

herself. A lady who is fighting matrimonial petition filed for divorce, can not be permitted to sit idle and to put her burden on the husband for demanding pendente lite alimony from him during pendency of such matrimonial petition. Section 24 is not meant for creating an army of such idle persons who would be sitting idle waiting for a „dole“ to be awarded by her husband who has got a grievance against her and who has gone to the Court for seeking a relief against her. The case may be vice-versa also. If a husband well qualified, sufficient enough to earn, sits idle and puts his burden on the wife and waits for a „dole“ to be awarded by remaining entangled in litigation. That is also not permissible. The law does not help indolents as well idles so also does not want an army of self made lazy idles. Everyone has to earn for the purpose of maintenance of himself or herself, atleast, has to make sincere efforts in that direction. If this criteria is not applied, if this attitude is not adopted, there would be a tendency growing amongst such litigants to prolong such litigation and to milk out the adversory who happens to be a spouse, once dear but far away after an emerging of litigation. If such army is permitted to remain in existence, there would be no sincere efforts of amicable settlements because the lazy spouse would be very happy to fight and frustrate the efforts of amicable settlement because he would be reaping the money in the nature of pendente lite alimony, and would prefer to be happy in remaining idle and not bothering himself or herself for any activity to support and maintain himself or herself. That can not be treated to be aim, goal of Section 24. It is indirectly against healthiness of the society. It has enacted for needy persons who in spite of sincere efforts and sufficient efforts are unable to support and maintain themselves and are required to fight out the litigation jeopardising their hard earned income by toiling working hours."

9. The said judgment has been relied upon by a coordinate bench of this court in the case of [Rupali Gupta vs. Rajat Gupta](#), 234 (2016) DLT 693 wherein this court has upheld the view of the Family Court declining interim maintenance to a wife who was a qualified Chartered Accountant and in profession since 2003. In the case of [Damanreet Kaur vs. Indermeet Juneja](#), (2013) 1 JCC 306, this court was dealing with the similar situation and upheld the order of the trial court where the wife was declined maintenance under the [Domestic Violence Act](#) on the ground that she was well qualified and had capacity to work and had been actually working in the past."

(15) In case of **Sanjay Bhardwaj & others v. The State & Anr.**, reported in **2010**

SCC Online Delhi 2912, High Court of Delhi has held as under :-

“5. We are living in an era of equality of sexes. The Constitution provides equal treatment to be given irrespective of sex, caste and creed. An unemployed husband, who is holding an MBA degree, cannot be treated differently to an unemployed wife, who is also holding an MBA degree. Since both are on equal footing one cannot be asked to maintain other unless one is employed and other is not employed. As far as dependency on parents is concerned, I consider that once a person is grown up, educated he cannot be asked to beg and borrow from the parents and maintain wife. The parents had done their duty of educating them and now they cannot be burdened to maintain husband and wife as both are grown up and must take care of themselves.”

(16) In view of above legal proposition, in this case applicant/wife is well qualified BDS doctor having working experience of three years, it cannot be said that she could not get job/work related to her qualification and could not maintain her livelihood. The applicant/wife has not filed any such cogent document, which shows that presently respondent/husband is working in any of the Company or doing permanent job and his present income is more than ₹ 10,000/- to ₹ 15,000/- as mentioned in the affidavit filed by respondent/husband during the course of trial.

(17) Therefore, looking to above facts situation, it cannot be said that amount of interim maintenance granted to the applicant/wife from the date of passing of the impugned order is on lower side or perverse or against the documents available on record. Thus, I do not find any infirmity or illegality in the order impugned warranting interference by this Court in the instant revision.

(18) Consequently, the criminal revision, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-
(N.K.Chandravanshi)
Judge

