

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 17.03.2021

Order Passed on : 07/04/2021

CR.R. No. 90 of 2017

Varun Gopal, S/o. Manmohan Gopal Shrivastava, aged about 30 years, R/o. 108 Luis Road, Forest Field Western Australia 6058, Permanent address W.Z.- 294/9, G Block, Jail Road, Harinagar, Delhi 110058.

---- Applicant

Versus

Smt. Shilpi Shrivastava, W/o. Varun Gopal Shrivastava, aged about 29 years, R/o. Om Nivas, beside Manorama Dairy, Zora Talab, Sarkanda, Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Respondent

AND

CR.R. No. 1102 of 2019

Smt. Shilpi Shrivastava, W/o. Varun Gopal Shrivastava, aged about 29 years, R/o. Om Nivas, Jora Talab, Behind Manorama Dairy, Jora para, Sarkanda, Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

Varun Gopal, S/o. Manmohan Gopal Shrivastava, aged about 30 years, R/o. 108 Luis Road, Forest Field Western Australia 6058. Indian Address : W.Z. 294/9, G-Block, Harinagar, Jail Road, Delhi 110058.

---- Respondent

In Cr.R. No.90/2017

For Applicant	: None present.
For Respondent	: Mr. Shreyankar Nandey, Advocate with Respondent in person.

In Cr.R. No.1102/2019

For Applicant	: Mr. Shreyankar Nandey, Advocate with Petitioner in person.
For Respondent	: None present.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

07/04/2021

1. Both the revision petitions arise out of the same order, therefore, they are being heard and decided by this common order.
2. Criminal Revision No. 90 of 2017 have been brought by the applicant – Varun Gopal challenging the order dated 09.11.2016, passed in M.J.C. No.14/2016, by the Additional Principal Judge, Family Court, Bilaspur, whereby allowing the application of the respondent under Section 125 of Cr.P.C. and granting maintenance of Rs.1,00,000/- per month to the respondent. Whereas, Criminal Revision No. 1102 of 2019 has been brought by the applicant – Shilpi Shrivastava praying for enhancement of the maintenance amount in the same order mentioned here-in-above.
3. The applicant in Cr.R. No.90/2017 shall be referred to as the applicant and the applicant in Cr.R. No. 1102 of 2019 shall be referred to as the respondent in this order.
4. There is no appearance on behalf of the applicant and therefore, there is no submission made.
5. Counsel for the respondent submits that the impugned order is sustainable. Although the respondent has been granted maintenance by this order, but she has separately filed a revision petition praying for enhancement in the same. Relying on the judgment of Supreme Court in case of **Rajnish Vs. Neha & Ors.**, reported in **2021 (2) SCC 324**, it is submitted that the applicant

has no entitlement to challenge the impugned order. Therefore, this petition be dismissed.

6. Counsel for the respondent submits that the maintenance granted by the impugned order is not befitting to the status, the respondent had enjoyed, when she was living with the applicant. Reliance has been placed on the judgment of Supreme Court in case of **Kalyan Dev Chowdhury Vs. Rita Dev Chowdhury Nee Nandy**, reported in **(2017) 14 SCC 200**, in which, it was held that 25% of the husband's net salary is just and proper to be awarded as maintenance to the wife. The respondent had produced the evidence in support of her statement in application and proved that the applicant has income of Rs.8.00 lakhs per month from all the sources, which has remained unrebutted. Reliance has also been placed on the judgment of Delhi High Court in case of **Babita Bisht Vs. Dharmender Singh Bisht**, passed in **Criminal Rev.P. No. 456 of 2015**, decided on 29.05.2019, according to which, the wife is entitled for maintenance of 30% of the net salary of the husband, therefore, it is prayed that the maintenance granted to the respondent is liable to be enhanced.
7. Respondent Varun Gopal (applicant) in Cr.R. No.90 of 2017 is again unrepresented, therefore, there is no submission and no opposition on his behalf.
8. Considered on the submission. There is unrebutted statement of the respondent before the Family Court that the applicant is employee of Woolworth Petroleum Perth Westfield in Australia,

who is drawing monthly salary, which is equivalent to Rs.4,25,000/- per month. Regarding other statement made that the applicant has other rental income from the property in his name is not supported with any documentary evidence, therefore, the statement regarding other income of the applicant can not be taken into consideration as it is. Hence, it is only the income of the applicant through salary from his employment is to be taken into consideration.

9. Agreeing with the judgment of Delhi High Court in case of **Babita Bisht (supra)**, 30% of the amount of salary as mentioned here-in-above shall be the proper amount of maintenance, which may be awarded to the respondent, which shall be Rs.1,27,500/-. Hence, it is held that the respondent is entitled for enhancement as per this calculation made.
10. Accordingly, Cr.R. No. 90/2017 is found to be without any substance, hence, it is dismissed. Cr.R. No. 1102 of 2019 deserves to be allowed on the basis of the discussions made here-in-above. Hence, it is allowed. Maintenance granted to the respondent by the impugned order is now enhanced to Rs.1,27,500/- per month, which shall be payable from the date the learned Family Court has ordered for such payment.

Sd/-
(Rajendra Chandra Singh Samant)
Judge