

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.92 of 2021**

- Virendra Bhagat S/o Late Bifnath Bhagat Aged About 35 Years
Caste- Uraon, R/o Maragaa, Dumartoli, Post-Sogadaa, Tehsil-
Manora, Distt.- Jashpur (Chhattisgarh) At Present R/o Police Thana-
Lemaru, Distt.- Korba (Chhattisgarh)

---- Applicant**Versus**

1. Smt. Shanti Bhagat W/o Sri Virendra Bhagat Aged About 34 Years
Caste- Uraon, R/o Village - Darji Mohalla, Sarna Toli, Jashpurnagar,
Thana And Tehsil And Distt.- Jashpur (Chhattisgarh)
2. Lalmuni Bai W/o Late Bifnath Ram Bhagat Aged About 58 Years
Caste- Uraon, R/o Maragaa, Dumartoli, Post- Sogadaa, Tehsil-
Manora, Distt.- Jashpur (Chhattisgarh)

---- Respondents

 For applicant : Shri Sanjay Patel, Advocate
 For respondent No.1 : Shri Anshul Tiwari, Advocate

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****22.9.2021.**

1. This revision petition has been brought against order dated 17.3.2020 passed by Sessions Judge, Jashpur (CG) in Criminal Appeal No.38/2019, whereby the appeal preferred by the applicant has been dismissed.

2. Brief facts pertaining to this revision is that the respondent/wife filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act 2005') before the Chief Judicial Magistrate, Distt. Jashpur seeking various reliefs including maintenance for herself. Vide order dated 25.9.2019 passed in Misc. (Criminal) Case No.13/15, the learned trial Court granted Rs.7,000/- per month as

maintenance to her and also directed the applicant/ husband to keep his wife/respondent with him in his house and also restrained him to oust her from the house. Aggrieved by this order, both the parties filed appeals before the Sessions Judge, Jashpur, wherein the said Court by impugned order dated 17.3.2020, dismissed the Criminal Appeal No.38/2019 preferred by the applicant/husband, whereas partly allowed Criminal Appeal No.28/2019 preferred by the respondent/ wife by enhancing the maintenance amount from Rs.7,000/- per month to Rs.10,000/- per month from April 2020. Hence, this revision.

3. Learned counsel for the applicant submits that the respondent/wife and her witnesses have never deposed in their statement that the applicant/ husband had ever committed any physical violence upon her. The act of not keeping the wife with him or avoiding her by the husband, does not come within the definition of 'Domestic violence' of the Act 2005, despite that, both the Courts below have erroneously held that the applicant/husband has committed domestic violence with his wife. He further submits that if this Court is also in the opinion that the applicant/husband has committed domestic violence against his wife, then looking to the income of the applicant/husband, the amount of maintenance enhanced by the appellate Court in favour of the respondent/wife be reduced to the extend granted by the learned trial Court.

4. Per contra, learned counsel for the respondent/wife supports the impugned orders mentioning that no error has been committed by both the Courts below in passing the impugned orders, therefore, it does not call for any change by this Court.

5. I have heard learned counsel for the parties and perused the record of the Courts below as well as the documents annexed with the record.

6. The scope of 'domestic violence' as defined under Section 3 of the Act 2005, is very vast, act or conduct committed by the relatives of the aggrieved person, includes mental, physical, emotional and economic abuses also. The act of not keeping the wife by the husband or avoiding her for long time or sending her to her parental house without her will or not talking to her and more over making demand for four wheeler vehicle from her parental side, as has been stated by the respondent/wife Shanti Bhagat (AW-1) in her deposition, are the facts well supported by her sister-in-law Smt. Kunti Bhagat (AW-2) in her deposition in this case. From the above it is undisputedly proved that the applicant/husband has committed domestic violence as defined under Section 3 of the Act, 2005 with the respondent/wife.

7. The applicant husband (NAW-1) in para 14 to 25 of his cross-examination has rebutted his various earlier statements of deposition. He has also admitted in para 22 that community meeting was held on 24.10.2015 in respect of their dispute and panchnama in this regard has also been executed. He has also admitted that in that meeting he denied to keep his wife with him, whereas she had expressed her willingness to live with him. Admissions made by the applicant/husband in his cross-examination also inspire confidence of the Court in respect of the facts narrated by the respondent/wife in her statement. Considering the totality of the evidence available in the record, I do not find any infirmity or illegality in the findings of both the courts below that domestic violence committed

by the applicant/husband with his wife (respondent No.1) is well established/proved in this case, which does not call for any interference by this Court.

8. So far as the amount of maintenance part is concerned, it is not in dispute that the applicant/husband is working as Head Constable in the Police Department and as per his salary slip (Article – A/1) of December 2017, he had drawn gross salary of Rs.33,565/- and net salary of Rs.22,426/-, as has been stated in the impugned order. Salary of Government servant increases annually by increase of dearness allowance and increment . Revenue records of the land (Ex-P/5, P/6 & P/7) show that he is having some agricultural land also, therefore, looking to the income and also looking to the fact that salary of the applicant/husband would increase in future also, increase in the maintenance amount from Rs.7,000/- per month to Rs.10,000/- per month by the learned appellate court, cannot be termed as on higher side or bonanza to the wife, therefore, it also does not call for any interference by this Court.

9. In view of the above, I do not find any infirmity or illegality in the order passed by the Court below warranting interference of this Court.

10. Thus, the revision is dismissed accordingly.

Sd/-

(N.K. Chandravanshi)
JUDGE