

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****Criminal Revision No. 410 of 2019**

Devesh Sharma, son of Shri Bholanath Sharma, aged about 43 years, resident of 7/44, Rama Valley, Bodri, Tahsil and District Bilaspur (C.G.)

---- Applicant

Versus

1. Smt. Beenu Sharma, wife of Devesh Sharma, daughter of late Vishnu Dev Pathak, aged about 38 years, resident of R-7/39, Rama Vallay, Bodri, District Bilaspur (C.G.)

2. Bholanath Sharma, son of late Chandrakesh Datt Sharma, aged about 70 years, resident of Bus Stand, Jashpur Nagar, District Jashpur (C.G.)

3. Vedvati Sharma, wife of Bholanath Sharma, aged about 67 years, resident of Bus Stand, Jashpur Nagar, District Jashpur (C.G.)

4. Anil Kumar Sharma, son of late Chandrakesh Datt Sharma, resident of B-203 Annapurna Vihar, H.T.P.P. Darri Colony (C.G.)

5. Smt. Kiran Sharma, wife of Shri Anil Kumar Sharma, resident of B-203 Annapurna Vihar, H.T.P.P. Darri Colony (C.G.)

----Respondents.

For Applicant	:	Mr. Ashutosh Shukla, Advocate
For Respondents	:	Mr. R.S. Marhas, Advocate.

Hon'ble Shri Justice N.K. Chandravanshi

Order On Board

19.08.2021

(1) This revision petition has been preferred against the impugned order dated 06.11.2018 passed by Sessions Judge, Bilaspur in Criminal Appeal No.

147/2018 whereby learned Sessions Judge has enhanced the amount of interim maintenance of Rs.10,000/- granted by the trial Magistrate to Rs.15,000/- per month.

(2) Facts in nutshell giving rise to this revision petition are that non-applicant No. 1/wife has filed a case against applicant/husband and non-applicants No. 2 to 5 under Section 12 read with Sections 18, 19, 20, 21 and 22 of The Protection of Women from Domestic Violence Act, 2005 (henceforth “ Act, 2005”) before Judicial Magistrate, First Class, Bilha, District Bilaspur. In that case, on being application filed by non-applicant No. 1/wife seeking interim maintenance, the trial Magistrate, vide its order dated 22.06.2018, granted interim maintenance to the tune of Rs.10,000/- per month in favour of non-applicant No. 1/wife. In an appeal preferred by her, against the order of trial Magistrate, learned Sessions Judge, vide its impugned order 06.11.2018, after affording due opportunity of hearing to both the parties, enhanced the amount of interim maintenance from Rs.10,000/- per month to Rs.15,000/- per month. Hence, this revision.

(3) Learned counsel for the applicant/husband would submit that non-applicant No. 1/wife is a practicing lawyer in the High Court of Chhattisgarh, presently she is working as Panel Lawyer in the office of Advocate General. Her monthly income is Rs. 50,000/- to Rs.60,000/-. She is income tax payee and she is also filing income tax return in every financial year, therefore, she is able to maintain herself for her livelihood. He further submits that applicant/husband has purchased many immovable property in her name and has also provided her

personal Car with driver. Although, applicant is electric contractor but due to Covid-19 pandemic situation and lockdown, his business and income has been decreased remarkably. He is also giving Rs.20,000/- per month for maintenance of her daughter, who is living with applicant/wife, and other expenses. He has also paid monthly installment (in thousands) for repayment of loan, which is about one crore. Despite that, learned Family Court, without considering all these facts, enhanced the interim maintenance amount, which is erroneous and unsustainable in law.

(4) On the other hand, learned counsel for non-applicant No. 1/wife submits that non-applicant No. 1/wife is a junior Advocate, although presently she has empaneled as Panel Lawyer in the office of Advocate General but as a Panel Lawyer, she does not get the case in each day. Not only this, due to Covid-19 pandemic situation and lockdown, limited cases are taken-up for hearing, therefore, from the said work, she is getting very meager amount, which is insufficient to maintain herself. He has further argued that her income tax return was filed by the applicant/husband in respect of the amounts given by applicant/husband to her. Non-applicant No. 1/wife has no permanent source of income, therefore, impugned order does not call for any interference in the instant revision petition.

(5) I have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

(6) It is not in dispute that applicant/husband is an Electrical Contractor and

as per his reply filed before the trial Court, he has purchased many immovable properties in the name of non-applicant No. 1/wife.

(7) Record of the trial Court as well as the impugned order shows that applicant works as Electrical Contractor and his earning is Rs.7-8 lakhs but out of that amount, Rs.3 – 4 lakhs was spent in maintenance of his said work and other liabilities. Perusal of the impugned order & record of court below also show that financial status of the applicant/husband is good and the amount of Rs.15,000/- per month enhanced by the appellate Court is not appears to be on higher side.

(8) Sub-section (2) of Section 20 of the Act, 2005 provides that the monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(9) In the instant case, non-applicant No. 1/wife is a practicing lawyer whereas applicant/husband is working as Electrical Contractor. Although, non-applicant No. 1/wife is said to be the income tax payee, and copy of income tax return, which is in the name of non-applicant No. 1/wife, has been filed by the applicant/husband before this Court. But on behalf of non-applicant/wife, it has been submitted that income tax return was filed by the applicant/husband himself in her name and she herself is not having any permanent income. Although, non-applicant/wife is practicing lawyer but no such document has been filed by the applicant/husband, which shows her monthly income from Advocacy or other work, therefore, looking to the submissions made on behalf of non-applicant/wife,

only on the basis of income tax return, it cannot be said that she is earning permanent and sufficient income from her profession of Advocacy to maintain herself.

(10) Looking to the profession of applicant/husband & non-applicant No.1/wife, provisions of sub-section (2) of Section 20 of the Act, 2005 and also good financial status of the applicant/husband, it cannot be said that enhancement of the interim maintenance amount from Rs.10,000/- per month to Rs.15,000/- per month by learned appellate Court is excessive or on higher side.

(11) As a fallout and consequence of the above-stated discussion, the criminal revision, being without substance, is liable to be and is hereby dismissed.

Sd/-
(N.K.Chandravanshi)
Judge

D/-

