

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**Proceedings through Video Conferencing**

**CR.R. No. 358 of 2021**

Smt. Kalpna Singh Tomar W/o Arun Singh Tomar Aged About 32 Years Caste Kshtriy (Rajput), Residence Of Sunil Kumar Mehen Ka Makan, M.N. 1006, Laxmanban Talab Ke Paas Korba, Ward No. 11, Thana City Kotwali Korba, Tahsil and District Korba Chhattisgarh

**Applicant**

**Versus**

Arun Singh Tomar Son of Siddhpal Singh Tomar Aged About 40 Years Cast Kshtriy (Rajput), Chemist, C/o Narmda Driks Private Limited, Bilaspur, Sirgitti Sector B, Sirgitti Industrial Area Bilaspur, District Bilaspur CG Pin Code 492001

**Non-applicant**

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 For Applicant : Shri Vikas Pandey, Adv.  
 For non-applicant : Shri Kishan Lal Sahu, Adv.  
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**Hon'ble Shri Justice N.K. Chandravanshi**

**Order on Board**

**24-8-2021**

1. Challenge in this revision petition is to the order dated 9-2-2021 passed by Judge, Family Court, Korba in Misc. (Cr.) Case No. 107/2019 whereby the applicant has been granted Rs. 4,000/- per month as interim maintenance from the date of order, against the non-applicant.

2. At the outset, learned counsel for the applicant submits that he does not want to press any other relief, as prayed in the revision petition, except, the prayer that interim maintenance be allowed from the date of filing of the application under Section 125 of the Code of Criminal Procedure (in short 'Cr.P.C.') i.e. 27-8-2019. He further submits that as per sub-section (2) of Section 125 of the Cr.P.C., interim maintenance ought to have been granted by learned trial Judge from the date of application, which has also been observed by Hon'ble Supreme Court in the case of **Rajnesh -v- Neha and another** [(2021) 2 SCC 324], but learned

trial Court has granted interim maintenance from the date of order i.e. 9-2-2021 which is erroneous and not sustainable.

3. Per contra, learned counsel for the non-applicant submits that non-applicant is doing job in private company, from where, he earns Rs. 8,387/- per month as salary, out of which, he has to pay Rs. 5,000/- per month to his old aged parents who are having age ailments, he also pays Rs. 4,000/- monthly as house rent. He does not have any saved amount. He fulfills all his liabilities from his salary, which he gets per month. Therefore, looking to his poor financial condition, the interim maintenance amount, if made payable from the date of application, will create very much hardship for him. Thus, he prays that the order impugned does not call for any interference by this Court.

4. I have heard learned counsel for both the parties, perused the documents placed on record and considered the submissions made by counsel for both the parties.

5. Sub-section (2) of Section 125 of the Cr.P.C. provides that allowance for maintenance or interim maintenance shall be payable from the date of order, or if so ordered, from the date of application. In case of **Rajnesh** (supra), Hon'ble Supreme Court has observed that "maintenance ought to be granted from the date when the application was made, because this view is based on the rationale to protect a deserted wife and dependent children from destitution and vagrancy."

6. In the instant case, non-applicant has submitted his salary slip of June, 2021, which shows his net salary as Rs. 18,387/- per month. He has also filed copy of rent agreement of his rented house, which shows that he pays Rs. 4,000/- per month for his rented house. These facts show that he is a person of low income group. As stated by learned counsel for the non-applicant, he has to pay Rs. 5,000/- per month to his old aged parents also. In such facts and circumstances of the case, it is difficult for a person of low income group to deposit huge

amount. If the applicant is ordered to pay interim maintenance from the date of application i.e. 27-8-2019, then certainly, it will put him in great hardship to give thousands of rupees to the applicant/wife. Looking to above facts and circumstances of the case, I do not find any infirmity in the impugned order granting interim maintenance amount to the applicant/wife from the date of impugned order i.e. 9-2-2021.

7. In view of above, revision being sans substance, is hereby dismissed.

**Sd/-**

**(NK Chandravanshi)**  
**Judge**

Pathak/-