

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 456 of 2017

1. Anil Kumar Gupta S/o Sudama Prasad Gupta, Aged About 30 Years, R/o Village Gandhinagar, Ambikapur, District Surguja (C.G.).

---- Applicant/Respondent

Versus

1. Smt. Ranjita Devi W/o Anil Kumar Gupta, Aged About 28 Years, R/o Village Gandhinagar, Ambikapur, District Surguja, (C.G.). At Present R/o Village Tapkara, Tahsil Pharsabahar, District Jashpur (C.G.).

---- Respondent/Applicant

For Applicant/Respondent : Mr. Anurag Singh, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

25/11/2021

- 1) Heard on admission.
- 2) The applicant has filed this revision petition challenging the order dated 08/09/2016 passed by the Family Court Jashpur, District Jashpur (C.G.) in Miscellaneous Criminal Case No. 133/2015 whereby allowing the application under Section 125 of the Code of Criminal Procedure, Rs. 2,000/- per month maintenance has been awarded in favour of respondent.
- 3) As per averments in the application under Section 125 of the Code of Criminal Procedure filed by the respondent wife, on 29/06/2012 her marriage with the applicant was solemnized and they live together for about 8-10 months. During this period she was ill treated by the applicant filthily abusing her and making illegal demand of dowry. Being fed up with this persistent ill treatment she left matrimonial home and started residing in her parental home. According to the respondent the applicant is earning Rs. 30,000/- per month by running Dainik Bhaskar

Newspaper Agency and Rs. 20,000/- as an Electrician. Therefore, she prayed for grant of maintenance of Rs. 8,000/- per month from the applicant.

- 4) Learned counsel for the applicant submits that the learned Trial Court wrongly and erroneously passed the impugned order allowing maintenance of Rs. 2000/- per month which is on higher side. The applicant was not given proper opportunity to appear before and defend himself. Therefore, looking to the amount awarded which is on higher side and no proper opportunity was given to the applicant, the impugned order is liable to be set aside.
- 5) Heard learned counsel for the applicant and perused the material available on record.
- 6) So far as no grant of sufficient opportunity of hearing to the applicant is concerned, from the order sheet of the Court below it is seen that on 13/10/2015 counsel for the applicant appeared before the Court of Judicial Magistrate First Class and on the said date interim maintenance of Rs. 1,000/- was allowed in favour of respondent wife and therefore the matter was transferred to the Family Court, Jashpur. Notices were issued to the applicant by the Family Court on number of occasions but same was returned unserved and the notice was received by the applicant only on 16/07/2016 vide order dated 27/07/2016 but he remained absent on the said date i.e. 27/07/2016. Therefore, the matter was fixed for ex-parte evidence of the non-applicant on 19/08/2016. On 19/08/2016, 02/09/2016 as also on 08/09/2016 the applicant remained absent. Thus, from the order sheets of the Court below it is evident that sufficient opportunity of hearing was afforded to the applicant but he himself did not appear before the Court which led the Court to pass ex-parte order against him. Therefore, the argument of counsel for the applicant that no proper opportunity was given to the applicant has no substance and the same is hereby rejected.
- 7) Considering the fact that the respondent is the legally wedded

wife of the applicant, her evidence before the Family Court which remained uncontroverted, for want of any documentary evidence regarding income of the applicant the Family Court considering the provisions of Minimum Wages Act, awarded a sum of Rs. 2,000/- per month as mentioned in favour of the respondent, which cannot be said to be excessive or unwarranted.

- 8) Accordingly, the revision petition being without any substance is hereby **dismissed** at the admission stage itself.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant