

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 1022 of 2019

Reserved on 15.03.2021

Delivered on 06.04.2021

Smt. Khushbu Sachdev W/o Shri Varun Sachdev Aged About 32 Years
Present R/o C/o S/o Shri Suresh Pijani, A-11, Kavita Nagar, Raipur
Chhattisgarh Mob. No. 9303220011, District : Raipur, Chhattisgarh.

---- Applicant

Versus

Varun Sachdev S/o Dr. Jitendra Sachdev Aged About 33 Years
Permanent R/o 32 Rukhmamni Jamuna Giri Road, Samrat Nagar,
Vallapa Colony, Dhuliya Maharastra Present R/o (According To
Passport) Address-3: 57, Wedgewood Avenue Manager East 2024,
Auckland (New Zealand) E-mail (1):- sachdev_v@ymail.com, (2):-
Varun_sachdev98@gmail.com. Official Address ASB Bank, 17,
Ronwood Avenue, Manukau, Auckland (New Zealand) Mob.
No.64224615122.

---- Respondent

For Applicant	: Shri Ranbir Singh Marhas, Advocate.
For Respondent	: Shri Vivek Kumar Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

Heard.

1. This criminal revision has been brought against the order dated 31.7.2019 passed by the Learned First Additional Principal Judge, Family Court, Raipur in M.J.C. No. 781 of 2018 on the ground of insufficiency of the maintenance granted and praying for enhancement of the maintenance amount.
2. It is submitted by counsel for the applicant that the respondent/ husband of the applicant is a man of means who is employed in foreign country in a bank and drawing salary of more than Rs.1,00,000/-. Salary slips of the monthly wages of the respondent are produced alongwith the petition. Apart from that, the respondent is also owner of the property

which is situated in Dhuliya, Maharashtra. Learned Family Court although, held the applicant is entitled for grant of maintenance, but the maintenance order is very-much on the lower side, looking to the income which the applicant is getting per month and also the maintenance granted is not in parity with the status of living, which the applicant enjoyed when she was residing with the respondent. Therefore, it is prayed that a suitable enhancement be made.

3. Reliance has been placed on the judgment of the Supreme Court in the case of **Reema Salkan vs. Sumer Singh Salkan**, reported in **(2019) 12 SCC 303**, in which it was held, that regard must be had to the living standard of the husband and his family. Reliance has also been placed on the judgment of Supreme Court in the case of **Rajnesh vs. Neha and Another**, reported in **(2021) 2 SCC 324**.
4. Learned counsel for the respondent opposes the submissions of the applicant's side and submits that the applicant is able to maintain herself as she is a qualified dental surgeon. The impugned order is proper and reasoned and the maintenance granted is just and proper which needs no interference. The respondent has other financial burdens, therefore, he would be unable to make payment of any enhanced maintenance. Hence, the revision petition be dismissed.
5. In reply, it is submitted by counsel for the applicant that the applicant had been employed as dental surgeon before her marriage but after her marriage with the applicant she had to leave that job. At present, there is great difficulty in seeking and getting job and further, the applicant has no such financial support to start her own clinic, therefore, the applicant is at present dependent only on the maintenance, which may be ordered to be given by the respondent.

6. Heard counsel for both the parties and perused the documents produced alongwith the petition.
7. According to the evidence from applicant's side, the respondent resides in New Zealand and he is working at a high post in ASB Bank drawing salary of 2,800 dollars which is about Rs.1,36,640/- in Indian currency. The respondent is getting other income from share market and he is also getting share from the income from joint property of the family which is situated in Dhuliya, Maharashtra, therefore, he has total income of Rs.2,00,000/- per month. This statement from the applicant's side has remained unrebutted. The respondent side had not appeared in the proceeding before the Family Court and that proceeding was *ex parte*. Hence, the evidence regarding income of the respondent by the applicant side has remained unchallenged.
8. After considering on the evidence present in the record of the proceedings, it is apparent that the respondent who is residing in a foreign country and drawing a comfortable salary, had been enjoying a good status in life in which the applicant was also a participant for sometime until she resided with him.
9. In **Reema Salkan** case (supra) and in **Rajnesh** case (supra), it is clearly held that the status of the parties shall be a factor which shall be taken into consideration for deciding the quantum of maintenance and that the maintenance amount awarded must be reasonable and realistic, and to avoid either of the two extremes, i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.

10. Taken into consideration all these facts, I am of this view that the applicant in this case is entitled for enhancement of maintenance. Hence, this revision is allowed and the impugned order is modified. The maintenance granted to the applicant for Rs.25,000/- per month is now enhanced to Rs.40,000/- per month which shall be payable from the date fixed in the impugned order.

11. Accordingly, the revision petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi