

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CRIMINAL REVISION No. 1576 of 2019**

1. Smt. Madhvi Sonwane W/o Amod Anand Sonwane Aged About 40 Years
2. Janhvi Amod Sonwane D/o Amod Anand Sonawane Aged About 10 Years
3. Harshwardahn Amod Sonwane S/o Anand Sonawane Aged About 3 Years

Applicants No. 2 and 2 minor, through natural guardian mother, All R/o Ward No. 12, Vivekanand Colony, Nandini Nagar, Durg, District Durg, CG

---- Applicants

Versus

Amod Anand Sonawane (Husband) S/o Anand Sonawande Aged About 45 Years Office Address 345, 6th Floor, Shri Mohini Complex, Kingsway Nagpur, Maharashtra. 440001,

Presently Residing at Smt. Sakina, Flat No. 401, 4th Floor, Utkarsh Anuradha Housing Society, B-Block, Behind Hotel Heritage, Arshiwala, Civil Line, Nagpur, Maharashtra 440001.

Permanent R/o Flat No. 73, Bhagya Complex Housing Society, Anand Nagar, Chakkikhana Wakola, Shantakruj East Mumbai, Maharashtra 400055.

----Non-applicant

 For Applicants : Shri Tarendra Kumar Jha, Adv.
 For non-applicant : Shri Khushboo Dua, Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****25-6-2021**

1. The applicants have preferred this criminal revision under Section 19(4) of the Family Courts Act, 1984, against the order dated 23-8-2019 passed in Cri. M.J.C. No. 1289/2018 by learned Principal Judge, Family Court, Durg, Distt. Durg.
2. Facts of the case, in brief, are that the applicants No. 1, 2 and 3 are wife, daughter and son of the non-applicant respectively.

Marriage of non-applicant/husband and the applicant/wife was solemnized on 14-2-2007. Due to some dispute arose between the husband and the wife, the applicants filed an application under Section 125 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') along with an application under Section 125(2) of the Cr.P.C. for grant of interim maintenance. After due consideration, the trial Court, by the impugned order, granted interim maintenance Rs. 6,000/- each to applicants No. 2 and 3 considering the requirement of amount for their admission fee, tuition fee and their maintenance, however rejected interim maintenance to applicant No. 1/wife considering the fact that the applicant No. 1 being engaged in medical profession is capable to earn and maintain herself.

3. Learned counsel for the applicants submits that due to cruelty of non-applicant, the applicants are living separately from him. Applicant No. 1 is a disabled person upto 75%. As per salary slip of non-applicant Annexure A-4, his total earnings are Rs. 1,19,505.10 per month. The trial Court only on the assumption that the applicant No. 1 is able to maintain herself, has rejected her prayer for interim maintenance. Looking to the inflation now a days, the applicant No. 1 may be granted interim maintenance and the interim maintenance granted to applicants No. 2 and 3 may also be suitably enhanced.

4. Learned counsel for the non-applicant submits that the applicant No. 1 is a well earned lady having her own clinic and many immovable properties. She is capable to maintain herself. Therefore, she is not entitled to get any interim maintenance.

Thus, the trial Court has rightly dismissed her application for grant of interim maintenance. The interim maintenance granted to the applicants No. 2 and 3 is also sufficient and needs no change.

5. 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.

6. As per the salary slip filed along with the revision petition as Annexure A-4, total earnings of the non-applicant are Rs. 1,19,505.10 per month.

7. Looking to the age of the applicant No. 3 Harshwardhan Amod Sonwane, the interim maintenance granted to him appears to be proper. However, looking to the age of the applicant No. 2 Janhvi Amod Sonwane, her need towards education, health etc., in the opinion of this Court, Rs. 8,000/- would be proper interim maintenance.

8. So far as the applicant No. 1 is concerned, although it has been stated that she is a B.H.M.S. degree holder earning Rs. 50,000/- per month by running a clinic and also has immovable property, but no such document has been filed by the non-applicant regarding her earning. Only on the basis that she is a B.H.M.S. doctor, it cannot be assumed that she earns Rs. 50,000/- per month and she also earns some amount from her immovable property.

9. In the case of **Sunita Kachwaha and others -v- Anil Kachwaha** reported in (2014) 16 SCC 715, Hon'ble Supreme Court has observed in para 8 that :-

“.....merely because the appellant wife is a qualified postgraduate, it would not be sufficient to hold that she is in a position to maintain herself.”

10. Therefore, without any document regarding earning of the applicant No. 1, only on the basis of factual statement, the averment of learned counsel for the non-applicant cannot be accepted. Therefore, looking to the need of the day, it would be proper to grant interim maintenance of Rs. 10,000/- per month to the applicant No. 1.

11. In the result, the revision petition filed by the applicants is partly allowed. The impugned order dated 23-8-2019 passed by the Principal Judge, Family Court, Durg (CG) in Cr. M.J.C. No. 1289/2018 is set aside. It is directed that the non-applicant shall pay Rs. 10,000/- (Rs. Ten thousands) per month to the non-applicant 1 Smt. Madhvi Sonwane, Rs. 8,000/- (Rs. Eight thousands) per month to non-applicant No. 2 Janhvi Amod Sonwane and Rs. 6,000/- (Rs. Six thousands) per month to applicant No. 3 Harshwardhan Amod Sonwane, as interim maintenance, till the final disposal of the application under Section 125 of the Cr.P.C. The amount be deposited from the month of August, 2019 as per the direction of the Court below.

**Sd/-
(N.K. Chandravanshi)
Judge**