IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 5th OF FEBRUARY, 2024

CRIMINAL REVISION No. 2636 of 2018

BETWEEN:-

KAMAR AZHAR S/O UMAR DARAJ, AGED ABOUT 30 YEARS, OCCUPATION: LABOUR KASAI WADA CITY MANDSAUR (MADHYA PRADESH)

.....PETITIONER

(NONE FOR THE APPLICANT)

AND

1. **FARIDA BEE W/O KAMAR AZHAR, AGED ABOUT 24 YEARS, OCCUPATION: SILAI HAL MUKAM-KHINNIWALI GUWADI NAYAPURA, MANDSAUR (MADHYA PRADESH)**

2. **MAJHAR MINOR THROUGH NATURAL GUARDIAN MOTHER FARIDA S/O KAMAR AJHAR MUSLMAN, AGED ABOUT 9 YEARS, R/O HALL MUKAM - KHINNIWALI, MUWADI, NAYAPURA, (MADHYA PRADESH)**

3. **AJHAR THROUGH NATURAL GUARDIAN MOTHER FARIDA S/O KAMAR AJHAR MUSLMAN, AGED ABOUT 5 YEARS, R / O HALL MUKAM-KHINNIWALI, GUWADI NAYAPURA (MADHYA PRADESH)**

.....RESPONDENTS

(NONE FOR THE RESPONDENTS)

This revision coming on for orders this day, the court passed the following:

ORDER

The present revision is of the year 2018. It is noted that on 11.12.2023 also no one appeared on behalf of the applicant. The matter is considered on

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merit.

2. The present revision is filed under Section 19(4) of Family Courts Act r/w Section 397 & 401 of Cr.P.C. against the order dated 02.05.2018 passed by Principal Judge, Family Court, Mandsaur in Case No.95/17 whereby the application filed by the respondents for grant of maintenance under Section 125 Cr.P.C. has been allowed.

3. By the impugned order, the Family Court has awarded maintenance of Rs.3000/- per month to respondent No.1/wife, Rs.3000/- to respondent No.2, who was 9 years of old and studying in Madarsa Board at that time and Rs.2000/- to respondent No.3, who was minor son of 6 years. Thus, total maintenance of Rs.8000/- has been awarded. It is not in dispute that a marriage was solemnized between the applicant and the respondent No.1 in the year 2007 as per Muslim Law in Mukhyamantri Kanyadan Yojna. The respondents No.2 & 3 are children out of the said wedlock. It was stated on behalf of respondent No.1 that the applicant was subjecting to her with cruelty. He used to beat her and used to threat her for divorce and second Nikah. For the said reason, she has withdrawn herself from the house of the applicant and started living with her parents.

4. Per contra on behalf of the applicant it was stated that the respondent No.1 was forcing him to live separately from her parents and she herself had gone to the house of her parents. She also lodged a report under Section 498-A, 323 of IPC.

5. Upon perusal of the record and the evidence of respondent No.1/DW-1, it is evident that the applicant was subjecting her to cruelty and she also lodged a report in this regard. The aforesaid testimony could not be dislodged by the present applicant. Regarding income, it was stated that the

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applicant is having a shop of timber and also takes contract for demolition of the house. According to her the applicant was earning Rs.30,000/- to Rs.40,000/- per month, however, the trial Court did not accept the aforesaid contention. It is held that in absence of any contrary evidence adduced by the present applicant, the moderate income was calculated and the Court awarded the maintenance to the respondents.

6. In view of the aforesaid, this Court does not find any illegality or perversity in the order awarding the maintenance to the respondent and the amount awarded by the trial Court is just and proper. The revision is **dismissed**.

(VIJAY KUMAR SHUKLA)
JUDGE

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