

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

ON THE 4th OF APRIL, 2024

MISCELLANEOUS CRIMINAL CASE No. 54170 of 2023

BETWEEN:-



.....APPLICANT

(BY SHRI PARITOSH TRIVEDI - ADVOCATE)

AND

1.



2.

.....RESPONDENTS

.....
*This application coming on for admission this day, the court passed
the following:*

ORDER

This application under Section 482 of Cr.P.C. has been filed against order dated 02/08/2023 passed by Second Additional Sessions Judge, Amarpatan, District Satna in Criminal Revision No.16/2022 arising out of order dated 23/09/2022 passed in M.J.C.R. No.115/2017 by JMFC, Amarpatan, District Satna, by which maintenance amount of Rs.5,000/- has been awarded to respondent No.1 and maintenance amount of Rs.3,000/- has been awarded to respondent No.2.

2. It is submitted by counsel for the applicant that the basic reason for separation of the applicant from respondent No.1 is that applicant belongs to very orthodox family, whereas respondent No.1 is a very modern girl which is evident from the posts uploaded by her on her Facebook account, which have been filed by applicant as Annexure-A/5. It is submitted that so far as the maintenance amount awarded to respondent No.2 is concerned, applicant has no objection and he would continue to pay but so far as the maintenance amount awarded to respondent No.1 is concerned, in view of the lifestyle of respondent No.1, the said order of maintenance may be quashed.

3. Considered the submissions made by counsel for the applicant.

4. The Court had repeatedly asked counsel for the applicant as to whether this Court by by-passing the provisions of law can deal the cases on the basis of morality? And whether living a modern life can be said to be an immoral act on the part of respondent No.1?

5. It is submitted by counsel for the applicant that law cannot exist in isolation of morality and therefore, morality has to be given preference.

6. Heard learned counsel for the applicant.

7. The Supreme Court in the case of **Nagarathinam Vs. State through the Inspector of Police** decided on 04/05/2023 in **Criminal Appeal No.1389/2023** has held as under:-

"17. Pausing here, the Court would note that the Appellant never tried to murder her sons with a view to continue her illicit relationship. On the contrary, she had tried to commit suicide herself along with her children not with a view to continue her illicit relationship with her paramour but rather, in disappointment and frustration over the quarrel picked up by her paramour. This Court is not an institution to sermonise society on morality and ethics and we say no further on this score, bound as we are, by the brooding presence of the rule of law."

8. Thus, this court cannot hold that if the wife is leading a modern life and if such an act of the wife is immoral in the eyes of her husband, then wife is wrong. Leading a modern life without committing an offence cannot be criticized at all. Unless and until it is held that wife is residing separately without any reasonable reason, she cannot be denied maintenance. Except submitting that wife is in habit of living a modern life which is not acceptable to the applicant, nothing else was pointed out to show that wife is residing separately without any reasonable reason. If there are differences between the applicant and his wife on this issue, then this Court can only say that so long as respondent No.1 is not indulged in criminal activity, she is free to live her life as per own wishes whether orthodox or modern.

9. Even otherwise, Trial Court has awarded the maintenance at the rate of Rs.5,000/- per month. In the light of price index, cost of living as well as cost of goods required for daily needs, this Court is of

considered opinion that by no stretch of imagination, it can be said that the maintenance amount of Rs.5,000/- per month is on higher side.

10. Accordingly, this Court is of considered opinion that no jurisdictional error was committed by the Trial Court by awarding monthly maintenance at the rate of Rs.5,000/- per month to respondent No.1 also.

11. Before parting with this order, this Court would like to point out that this order would not come in the way of respondents in case if they file an application under Section 482 of Cr.P.C. for enhancement of maintenance amount.

12. With aforesaid observation, application is **dismissed**.

(G.S. AHLUWALIA)
JUDGE

S.M.