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CRR-301-2020

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

CRIMINAL REVISION No. 301 of 2020

[REDACTED]

Versus

[REDACTED]

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Appearance:

Ms. Sudha Shrivastava - advocate for the petitioner.

Shri Arpit Singh, learned counsel for the respondent.

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Reserved on - 10.9.2024

Delivered on - 15.10.2024

ORDER

1. This criminal revision has been filed by the petitioner under Section 19(4) of the Family Courts Act being aggrieved by the judgment dated 18.12.2019, passed by learned Additional Principal Judge, Family Court, District-Indore, in MJCR No.1009/2014, whereby the learned Principal Judge has partly allowed the application filed under Section 125 of Cr.P.C by awarding total maintenance of Rs.40,000/- per months (i.e. Rs. 25,000/- per month in favour of the respondent No.1/wife & Rs.15,000/- in favour of respondent No. 2/daughter).

2. Learned counsel for the petitioner has submitted that the respondent is a working lady and capable to maintain herself. She has a career in modeling and she had also acted in some movies as well as serials and is



presently running a dance class. She is well qualified and is having M.Com. degree. She herself went to her matrimonial home. Petitioner is ready to keep the respondent and at the time of her delivery the petitioner has transferred Rs. 50,000/- in the respondent father's account. She has not filed any report for cruelty, physical or mental assault. For the payment of maintenance amount, the petitioner has taken loan from the bank. The petitioner is an employee in a private bank. His father and brother are depending on him. The maintenance amount awarded by the learned Family Court is causing extreme financial hardships on the applicant. The learned Family Court without appreciating the evidence, wrongly awarded the maintenance of Rs.25000/- in favour of respondent No. 1/wife hence, it may be reduced to the extent of Rs. 10,000/-. Further, in support of her contentions counsel placed reliance in the judgment passed by Delhi High Court in the case of *Rupali Gupta Vs. Rajat Gupta, delivered on 5.09.2016, Smt. Archana Gupta and Antoher Vs. Shri Rajeev Gupta and another, passed on 18.11.2009, passed by Uttrakhand High Court.* and also on a judgement passed by Hon'ble Apex Court in the case of *Dr. E. Shanthi Vs. Dr. H.K. Vasudev AIR 2005 Karnataka 417.*

3. Per contra, learned counsel for the respondents has opposed the contentions of the petitioner and submitted that the petitioner is failed to provide any documentary evidence to prove that the respondent is earning. The Petitioner is only exhibited newspaper clippings to show that the Respondent is working. In para No. 36 of the impugned order the Petitioner has himself accepted that such newspaper clippings are of the year 1997,



1999 and 2001 and that he is unaware that such films/serials are released or not. He has also made assertion of her working, yet is unaware of where she is working right now. In this regard, he has placed reliance in the case of **Laxmi Raj Shetty v. State of Tamil Nadu**, that newspaper articles are statement of fact contained in a newspaper and are merely hearsay and therefore inadmissible. So far as the contention regarding financial hardship to the petitioner to look after his family members is concerned, the petitioner himself admitted in para No. 7 of his cross-examination that he earns an amount of Rs. 1,26,684/- per month as he is working as senior manager in HDFC Bank, Kota where he says in his parent's own house. His father also owns a house in NRC colony which was accepted by the petitioner in para No. 8 of his cross-examination. He also accepted in para NO. 10 of his cross-examination that he owns a house in Mumbai and that he has created an FD in his own name of Rs. 3,00,000/- in para No. 19 of his cross-examination. His brother is a body builder and earns for himself and he also runs a private school in Kota as is apparent from his social media profile on linkdin. As per para No.22 of cross-examination of the petitioner, he has admitted that he has swift desire car and that his father owns an Etios car. In this regard, learned counsel placed reliance in the finding of the Hon'ble Delhi High Court in the case of *Sandeep Walia Vs. Monica Uppal, 2022 LiveLaw (Del) 677*. Hence, the Family Court after considering all the aspects and perspectives, passed the order of awarding maintenance, in favour of respondents. Therefore, the request of petitioner to modify the order of maintenance is required to be rejected.



4. Heard learned counsel for the parties.

5. In backdrop of the arguments and pleadings, I have gone through the record. It is revealed from the statement of Namita (AW-1) that the applicant used to beat her on small things. He also used to call her father and inform him that he cannot live with her and asked him to take his daughter. Her husband wanted a son but she gave birth to a girl child, therefore, he, being unsatisfied, continued to harass her and as a result, she left her matrimonial home.

6. On the contrary, the petitioner Amit Goyal asserted in his court statement that his wife/respondent concentrate only on economic issues and creates disputes in this regard. She was trying to get returned to her home. Further, he has stated that the respondent herself able to maintain her and when she voluntarily doesn't want to live with him, she is not entitled for any maintenance. However, on the issue of respondent's allegations, petitioner has not stated anything in rebuttal. He has not narrated anything regarding his wish of son and allegations of misbehaviour.

7. In view of the aforesaid contentions and appreciation of facts, the respondent is liable to get maintenance from her husband. In so far as the contentions of learned counsel of petitioner regarding qualifications of respondent is concerned, certainly the respondent is well qualified. She is having M.Com. and Arts degree. However, only on that basis, she cannot be deprived for her entitlement of getting maintenance. On this aspect, the laid down by Hon'ble Apex Court in para 10 of the case of *Sunita Kachwaha and*



Ors. Vs. Anil Kachwaha, reported as *AIR 2015 SC 554* is worth referring here:

"10.The learned counsel for the respondent submitted that the appellant-wife is well qualified, having post graduate degree in Geography and working as a teacher in Jabalpur and also working in Health Department. Therefore, she has income of her own and needs no financial support from respondent. In our considered view, merely because the appellant-wife is a qualified post graduate, it would not be sufficient to hold that she is in a position to maintain herself."

8. As such in view of the aforesaid proposition, only on the basis of M.Com. and Arts Degree the wife cannot be eschewed from getting maintenance from her husband. A husband cannot renounce his wife, who is not an employed woman. Nevertheless, an educated lady can earn income for her own livelihood, even though, she requires financial support from her husband to some extent. Accordingly, the respondents are entitled to get maintenance from the petitioner.

9. So far as the quantum of maintenance for the wife is concerned, it is contended by the counsel for the petitioner that the respondent/wife is a working lady. She is working in film making and has worked in movies and she is used to live glamorous life.

10. At this juncture, the following excerpts of *Rajesh Vs. Neha and Ors.*[(2021) 2 SCC 324] is reproduced below:-

The test for determination of maintenance in matrimonial disputes depends on the financial



status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. The maintenance amount awarded must be **reasonable and realistic, and 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 meager 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.

11. Therefore, in view of the aforesaid facts and circumstances and settled position of law, the learned Family Court has not committed any error while considering the socio-economic standard of wife as per the standard of her husband. Nevertheless, Section 125 of Cr.P.C has not been constituted to create an army of idle or inactive people waiting for maintenance to be awarded from the income of the other spouse. It is nowhere manifested that able and well qualified lady has to be always dependent upon her spouse for her maintenance.

12. In the case at hand, the wife used to be an actress in profession. She has also admitted in cross-examination that she has worked in two movies namely Morsan Chal Mitwa and Chhatisgarh Mahtari. It is also established as admitted fact that she is also well qualified lady. As per evidence available on record, it can be assumed that respondent No. 1 /wife can earn some income for her livelihood even after being supported from her husband.

13. In view of above, it appears that the wife is entitled for getting



maintenance amount but looking to her qualification and her abilities for earning money, the maintenance amount of Rs.25,000/- per month in favour of wife appears to be on higher side. Accordingly, this petition stands partly allowed with a direction that the maintenance amount awarded in favour of respondent No.1/wife by the Family Court is reduced from Rs.25,000/- to Rs. 20,000/- per month. So far as the maintenance awarded to the respondent No. 2/daughter is concerned, the same shall be maintained till the age of majority.

14. Remaining part of the order of family Court shall remain intact.

15. With the aforesaid, present petition stands disposed of.

(PREM NARAYAN SINGH)
JUDGE