

(Lakshminarayan vs. Smt. Sudamabai & Ors.)

07.09.2017

Shri S.S. Bhadauriya, Counsel for the applicant.

Shri D.S.Tomar, Counsel for the respondent.

Heard finally.

This criminal revision under Section 397, 401 of Cr.P.C. has been filed against the order dated 7.4.2017 passed by Principal Judge, Family Court, Vidisha in MJC No.75/2016 by which a maintenance to the tune of Rs.1000/- per month to each of the respondent has been awarded.

The necessary facts for the disposal of the present revision in short are that the applicant was married to the respondent No.1 about approximately 18 years back. It appears from the record that the respondents filed an application under Section 125 of Cr.P.C. seeking maintenance on the ground that the respondent No.1 was married to the applicant as per Hindu rites and rituals about 18 years back and the respondent No.2 aged about 14 years, respondent No.3 aged about 12 years and respondent No.4 aged about 10 years have been born out of their wedlock. It is submitted that initially the respondent No.1 had stayed along with the applicant in village Hirankheda but considering the future of the children they shifted to Vidisha. It was alleged that the applicant started talking to another lady and when the respondent No.1 objected to it, she was beaten by the applicant and after collecting his belongings he shifted to village Hirankheda. A complaint was made by the respondent No.1 to the Superintendent of Police, Vidisha.

It was alleged that the applicant was called but he insisted that the respondents should also stay with the applicant in village Hirankheda but since the children are studying at Vidisha, therefore, in case if the respondents shift to village Hirankheda then their future would spoil. The applicant is a Tailor by profession and it is alleged that he has four acres of agricultural land and accordingly the applicant is earning Rs.20,000/- to Rs.25,000/- per month. The respondent No.1 has no independent source of income.

The application was opposed by the applicant by filing a reply to the effect that after the marriage, the applicant and the respondent No.1 were residing in village Hirankheda, Tahsil-Rahatgarh, District Sagar. With the lapse of time, the parties shifted to Vidisha where the applicant constructed his own house. They started residing there and the applicants started working as a watchman for earning his livelihood. It was further alleged that as the applicant was not having money to construct his own house, therefore, he borrowed Rs.3,00,000/- from his father and siblings and in lieu of the same he had given up his right in the ancestral property. In the meanwhile the respondents No.2, 3 and 4 were born out of the wedlock. It was alleged that in the month of May, 2016 the applicant was beaten by some persons at the behest of the respondent No.1, resulting in fracture of his left hand and other injuries and instead of looking after him, the respondent No.1 left the house along with the respondents No.2 to 4 leaving the applicant all alone and, therefore, he was left with no other option but to shift to his parental

village. It is further submitted by the counsel for the applicant that after sometime the respondent No.1 came back to the house at Vidisha along with the respondents No.2 to 4. As the applicant was apprehending that he might be attacked and assaulted once again, therefore, he did not come back to Vidisha and continued to stay in his parental village Hirankheda, District Sagar.

The Trial Court after recording the evidence of the parties and hearing both the parties, allowed the application and directed the applicant to pay Rs.1,000/- per month to each of the respondents.

Being aggrieved by the order passed by the Family Court, this revision under Sections 397, 401 of Cr.P.C. has been filed.

It is submitted by the counsel for the applicant that the respondents are residing separately without any reasonable reason and, therefore, they are not entitled for maintenance.

Per contra, it is submitted by the counsel for the respondents that undisputedly there are no good educational facilities at village Hirankheda. The applicant himself has admitted that the village Hirankheda has school upto class 10th whereas the respondent No.2 is studying in Class 9th, respondent No.3 is studying in Class 6th and respondent No.4 is studying in Class 4th. It is submitted that after completion of Class-10th of the respondent No.2 there will not be any option with the respondent No.1 except either to shift to Vidisha once again or to discontinue the education of the respondent No.2. Nowadays educating a girl is very important because

a girl not only enlighten herself by getting educated but later on in the life she also maintains her family, therefore, girl's education is very important which cannot be ignored. Thus, if the respondent No.1 is residing at Vidisha in the house constructed by the applicant for the purposes of education of the respondents No.2 to 4, then it cannot be said that she is residing separately without any reasonable reason. It is further submitted that so far as the respondents No.2 to 4 are concerned, the applicant has not disputed the fact that he is the father of the respondents No.2 to 4. Thus, even otherwise he is under an obligation to maintain his minor children.

Heard the learned counsel for the parties.

The important question which arises in the present case is that whether the education of the children can be said to be a reasonable reason for the respondent No.1 to stay separately at Vidisha.

Nowadays where the society is moving ahead and the education is the basic requirement for settling down in the life, where the Government is also constantly running the programmes like name and style "बेटी बचाओ बेटी पढ़ाओ" for providing basic educational facilities to the children specially to the girls, it cannot be said that residing separately with an intention to get the children educated is not a reasonable reason. Undisputedly village Hirankheda has school only upto Class 10th. Vidisha is a District having more better educational facilities in comparison to village Hirankheda, District Sagar. For ensuring the life and future of the children if the respondent No.1 has decided to stay in Vidisha then it cannot be said that she is residing

separately without any reasonable reason. Furthermore, it is clear that the applicant has constructed a house in Vidisha also and it appears that because of some family disputes the applicant shifted to village Hirankheda and is now insisting that the respondent No.1 should also shift to village Hirankheda. The insistence on the part of the applicant that the respondents should also shift to village Hirankheda where undisputedly the educational facilities are not as good as they are in District Vidisha and even village Hirankheda does not have a Higher Secondary School and the respondent No.2 is studying in Class-9th, this Court is of the view that adamant attitude of the husband insisting that the respondents should also shift to village Hirankheda cannot be appreciated. Even if there are some family disputes between the husband and wife, but they are expected that they should try to save the future of their children and should not take any step which may adversely affect the life of their children. Even otherwise, the applicant has not disputed the paternity of respondents No.2 to 4. Thus, it is clear that so far as the respondents No.2 to 4 are concerned, the applicant is under an obligation to provide maintenance to them. So far as the respondent No.1 is concerned, this Court has already held that the respondent No.1 is also residing at Vidisha in order to provide educational opportunities to her children and this attempt on the part of the respondent No.1 must be appreciated and must be encouraged because not only she is making an attempt to get her children educated but by sacrificing her family life, she to a large extent must have become a role model for other

families to ensure that their children are also given a good educational facilities.

Considering the totality of the circumstances, this Court is of the view that the Family Court did not commit any mistake by allowing the application filed under Section 125 of Cr.P.C. and hence the order dated 7.4.2017 passed by Principal Judge, Family Court, Vidisha in MJC No.75/2016 is hereby affirmed.

So far as the question of maintenance amount is concerned, the Family Court has awarded Rs.1,000/- per month to each of the respondents by way of maintenance. By no stretch of imagination, the said amount can be said to be on a higher side.

Accordingly, this application fails and is hereby **dismissed**.

(G.S. Ahluwalia)
Judge

(alok)