



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

CRIMINAL REVISION No. 4107 of 2019

SMT. PRIYANKA RAJAWAT AND OTHERS

Versus

RAHUL SINGH RAJAWAT @ VIJAY SINGH

Appearance:

Shri Ankur Maheshwari – Advocate for applicants.

Shri Avadhesh Parashar- Advocate for respondent.

&

CRIMINAL REVISION No. 5206 of 2019

RAHUL SINGH @ VIJAY SINGH

Versus

SMT. PRIYANKA RAJAWAT AND OTHERS

Appearance:

Shri Avadhesh Parashar – Advocate for applicant.

Shri Ankur Maheshwari- Advocate for respondents

Reserved on: 09/01/2025

Pronounced on: 21/01/2025



ORDER

By this common order, both the aforesaid criminal revisions are being decided.

2. Both the criminal revisions arise out of order dated 23.07.2019 passed by the Principal Judge, Family Court, Bhind (M.P.) in Case No.138/2017 MJCR by which application for grant of maintenance under Section 125 of Cr.P.C. filed by Smt. Priyanka Rajawat has been rejected on the ground that she is residing separately without any reasonable reason whereas Virat Rajawat has been granted maintenance at the rate of 4,000/- per month.

3. Criminal Revision No.5206 of 2019 has been filed by Rahul Singh @ Vijay Singh Rajawat who is husband of respondent No.1-Smt. Priyanka Rajawat and father of respondent No.2-Virat Rajawat against maintenance amount awarded to his son respondent No.2-Virat Rajawat whereas Criminal Revision No.4107 of 2019 has been filed by Smt. Priyanka Rajawat and Virat Rajawat against the rejection of claim of applicant No.1-Smt. Priyanka Rajawat for maintenance under Section 125 of Cr.P.C.

4. The facts of Criminal Revision No.5206 of 2019 shall be referred to.

5. The undisputed facts are that applicant- Rahul Singh @ Vijay Singh Rajawat and respondent No.1-Smt. Priyanka Rajawat are the legally wedded husband and wife whereas respondent No.2-Virat is the child born out of their wedlock. Respondents No.1 and 2 filed an application under Section 125 of Cr.P.C. alleging that respondent No.1 and applicant got married on 30.04.2015 in accordance with Hindu rites and rituals. It is the case of respondent No.1 that applicant as well as his family members were not satisfied with the dowry brought by her. They were alleging that a four wheeler vehicle was decided to be given in dowry which was not done. Accordingly, it was alleged that applicant



and his family members were harassing her physically and mentally. Even after respondent No.1 got pregnant, still the cruelty did not come to an end. The entire expenses of delivery were borne by respondent No.1 and her family members. Panchayats were convened and accordingly for sometime respondent no.1 was kept properly but thereafter she was continuously harassed physically and mentally. On 23.05.2017 at about 06:00 pm when respondent No.1 was in her matrimonial house then her mother-in-law and father-in-law abused her filthily and after assaulting her by fists and blows turned her out of her matrimonial house along with her small child. It was alleged that respondent No.1 does not have any independent source of livelihood whereas applicant is working as Panchayat Secretary earning a monthly salary of Rs.15,000/-. Apart from that he is having land and house and accordingly, it was alleged that applicant is having monthly income of Rs.30,000-35,000/-.

6. Applicant- Rahul filed his reply and denied the allegations. It was alleged that in fact it was respondent No.1 who was creating all sorts of nuisance in the house. It was also stated that the delivery expenses were borne by applicant. It was further alleged that respondent No.1 had voluntarily left the house. On 14.01.2017 and on 04.06.2017, he also went to the house of parents of respondent No.1 to bring her back but she did not come back. Accordingly, it was alleged that he has filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

7. The Trial Court, after recording the statements of witnesses, rejected the application filed by respondent No.1 whereas allowed the application filed by respondent No.2 and awarded Rs.4,000/- per month as maintenance. The reason for rejecting the claim of respondent No.1 was that she was residing separately without any reasonable reason.



8. Challenging the order passed by the Trial Court in granting monthly maintenance of Rs.4,000/- to respondent No.2, it was submitted by counsel for applicant that since respondent No.1 is residing separately without any reasonable reason, therefore, respondent No.2 is also not entitled for maintenance, whereas in Criminal Revision No.4107 of 2019 it was contended by counsel for Smt. Priyanka Rajawat that Trial Court has committed material illegality by holding that she was residing separately without any reasonable reason. In reply, it was submitted by counsel for applicant-Rahul Singh Rajawat (respondent in Criminal Revision No.4107 of 2019) that finding with regard to non-entitlement of Smt. Priyanka Rajawat to get the maintenance is based on sound principles of law and reasoning and therefore does not require any interference.

9. Heard learned counsel for the parties.

Virat Rajawat:

10. Undisputedly, Virat Rajawat is minor boy born out of wedlock of Smt. Priyanka Rajawat and Rahul Singh Rajawat. He cannot be held responsible for any dispute which is going on between husband and wife. The father is under an obligation to maintain his child. Furthermore, it is the case of respondent No.1-Smt. Priyanka Rajawat that monthly income of Rahul Singh Rajawat is 30,000-35000/-. Accordingly, this Court is of the considered opinion that looking to the age of Virat Rajawat, the maintenance amount of Rs.4,000/- per month awarded by the Trial Court cannot be said to be either on lower side or on higher side. Accordingly, the maintenance amount of Rs.4,000/- per month awarded to Virat Rajawat is hereby affirmed.

Smt. Priyanka Singh Rajawat:

11. It is the case of applicant Rahul Singh Rajawat that it was respondent No.1 Smt. Priyanka Rajawat who voluntarily left her matrimonial house and her



behaviour towards her in-laws was also not proper. It was further submitted that an FIR was also lodged under Section 498A of IPC because father of respondent No.1 Smt. Priyanka Rajawat is working as a Head Constable. *Per contra*, it is submitted by counsel for respondent No.1- Smt. Priyanka Rajawat that merely because of an application under Section 9 of Hindu Marriage Act was filed would not mean that respondent No.1 Smt. Priyanka Rajawat left her matrimonial house on her own volition. However, it is further submitted that even the application under Section 9 of Hindu Marriage Act was withdrawn by her husband Rahul Singh Rajawat.

12. Considered the submissions made by counsel for the parties.

13. The moot question for consideration is as to whether merely filing an application under Section 9 of Hindu Marriage Act would make the wife ineligible for grant of maintenance or not?

If wife is being treated with cruelty then she cannot be compelled to live in her matrimonial house. Under these circumstances, mere filing of an application under Section 9 of Hindu Marriage Act *ipso facto* would not make the wife disentitled for grant of maintenance. Supreme Court in the case of **Rina Kumari @ Rina Devi @ Reena Vs Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another, Special Leave Petition (Crl.) No. 5896 of 2024 decided on 10.01.2025**, has held that even if decree under Section 9 of Hindu Marriage has been passed, still the wife can claim maintenance amount.

14. Where the parties are at loggerheads and an FIR under Section 498A of IPC has also been lodged, under these circumstances, this Court is of the considered opinion that rejection of claim of respondent No.1 (Smt. Priyanka Rajawat) for grant of maintenance appears to be contrary to law. The reasoning assigned by the Trial Court for holding that respondent No.1-Smt. Priyanka Rajawat was living



separately without any reasonable reason cannot be affirmed. Under these circumstances, order dated 23.07.2019 with regard to rejection of claim of respondent No.1- Smt. Priyanka Rajawat for grant of maintenance cannot be upheld and it is accordingly set aside.

15. Now, the next question for consideration is that what should be the maintenance amount for respondent No.1- Smt. Priyanka Rajawat?

According to respondent No.1-Smt. Priyanka Rajawat, monthly income of applicant- Rahul Singh Rajawat is Rs.30,000-35000/-. Although it is the contention of applicant-Rahul Singh Rajawat that father of respondent No.1 is working as Head Constable in police department and therefore, she is not ready to adjust in the family of applicant but during the course of arguments it was also admitted by applicant that his father is also working in the police department. Under these circumstances, this Court is of considered opinion that monthly maintenance amount of Rs.6,000/- to respondent No.1- Smt. Priyanka Rajawat would be sufficient. Accordingly, it is held that respondent No.1-Priyanka Rajawat is entitled for monthly maintenance at the rate of Rs.6,000/-. In the light of judgment passed by the Supreme Court in the case of **Rajnesh Vs. Neha** reported in **(2021) 2 SCC 324**, the aforesaid amount shall be payable from the date of application.

16. With aforesaid observations, Criminal Revision No.5206 of 2019 is hereby dismissed whereas Criminal Revision No.4107 of 2019 is allowed to the extent of applicant No.1- Smt. Priyanka Rajawat.

No order as to costs.

(G.S. Ahluwalia)
Judge