

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

CRIMINAL REVISION NO. 452 of 2024

BETWEEN:-

1. RUCHI, D/O LATE SHRI PREMCHAND BATHAM W/O SHRI RAVINDRA RAIKWAR, AGED- 28 YEARS, RESIDENT OF 383, HALALPUR BAIKARH HUZOR, P.S.HUZOR BHOPAL PRESENTLY KARNAKUNJ COLONY, DATIA, DISTRICT DATIA (MADHYA PRADESH)

2. CHETANYA, AGE 4 YEARS (MINOR UNDER NATURAL GUARDIAN MOTHER RUCHI) RESIDENT OF 383, HALALPUR BAIKARH HUZOR, P.S.HUZOR BHOPAL PRESENTLY KARNAKUNJ COLONY, DATIA, DISTRICT DATIA (MADHYA PRADESH) (MADHYA PRADESH)

3. VIVAN, AGE 2 YEARS (MINOR UNDER NATURAL GUARDIAN MOTHER RUCHI) RESIDENT OF 383, HALALPUR BAIKARH HUZOR, P.S.HUZOR BHOPAL PRESENTLY KARNAKUNJ COLONY, DATIA, DISTRICT DATIA (MADHYA PRADESH) (MADHYA PRADESH)

.....REVISION PETITIONERS

(SHRI HARSHVARDHAN SHARMA- ADVOCATE FOR REVISION PETITIONERS)

AND

RAVINDRA RAIKWAR, SON OF SHRI HARIPRASAD, AGE- 39YEARS, OCCUPATION- ASSISTANT GRADE-III, VALLABH BHAWAN,

**BHOPAL, RESIDENT OF 383, HALALPUR
BAIRAGARH HUZOOR, PS HUZOOR BHOPAL
(MADHYA PRADESH)**

.....RESPONDENT

**(SHRI CHANDRA PRATAP KUSHWAH- ADVOCATE FOR
RESPONDENT)**

Reserved on : 09-05-2024

Pronounced on : 20-05-2024

This revision having been heard and reserved for order, coming on for pronouncement this day, Justice Sanjeev S. Kalgaonkar pronounced the following:-

ORDER

This Criminal Revision under Section 397 read with Section 401 of CrPC has been filed assailing the order dated 01-11-2023 passed by the Principal Judge, Family Court, Datia in MJCR No.127 of 2021 whereby the application filed under Section 125 of CrPC for grant of maintenance was rejected with reference to revision petitioner No.1-Ruchi (wife), but it was allowed with reference to revision petitioners No.2 and 3- Chetanya and Vivan and respondent (husband) was directed to pay Rs.7,000/- per month towards maintenance in favour of children only.

(2) The exposition of facts, giving rise to this revision petition, is as under :

(i) Revision petitioner – Ruchi was married to respondent on 26-04-2026. They were blessed with first child, Chetanya on 11-02-2019 and second child, Vivan on 17-04-2021. There was matrimonial discord between revision petitioner- Ruchi and respondent- Ravindra. Ruchi is residing at her parental house since 2020. Ravindra is working in Government service.

(ii) Revision petitioner- Ruchi filed an application under Section 125 of CrPC, *inter alia*, stating that she could not conceive for two years of her marriage. Respondent started ill-treating and harassing her. Respondent and his mother used to take her to Occultist and Godmen. They used to manhandle her publicly and confine her in room. She was threatened to kill. Her sister-in-law Ranjana tried to kill her son suspecting her infidelity. On 26-11-2020, she went to her paternal home. Respondent never enquired her well-being despite birth of second child. Respondent never came to see his child. On 11-02-2019, around 10:30, respondent came to Datia and started abusing her. Revision petitioner Ruchi is unable to maintain herself, whereas, respondent Ravindra is working as UDC in Vallabh Bhawan, Bhopal. Respondent is earning Rs.48,000/- per month as salary. His mother also gets family pension. Therefore, petitioner requested for grant of maintenance to her and her children.

(iii) Respondent, in reply, stated that after few years of marriage, Ruchi started misbehaving with him and his family members. In November, 2020, Ruchi misbehaved with him and went to her parental home and never returned thereafter. He has deposited Rs.49,000/- towards expenses for delivery of child in the account of Ruchi, but he was not informed about birth of his second child. He was not permitted to meet his children. He is regularly transferring the money into the account of Ruchi for her expenses. Ruchi has left her matrimonial home without any reason. He is ready to accept her and continue matrimonial life. He has responsibility of his ailing mother and two sisters. Ruchi is not ready and willing for restitution of conjugal relations, therefore, she is not entitled for maintenance amount.

(iv) Learned Principal Judge, Family Court, on consideration of evidence on record, passed the impugned order dated 01-11-2023 and declined grant of maintenance to revision petitioner Ruchi, however, application was allowed with regard to minor children Chetanya and Vivan and respondent was directed to pay Rs.4,000/- per month towards maintenance of Chetanya and Rs.3,000/- per month towards maintenance of Vivan.

(3) Feeling aggrieved by impugned order of learned Principal Judge, Family Court, this revision petition is filed *inter alia* assailing the

impugned order on the following grounds :

(i) Learned trial Court has passed the impugned order without considering the important piece of evidence available on record.

(ii) Respondent and his family members used to ill-treat and harass revision petitioner Ruchi with regard to demand of dowry, therefore, she was unable to live with her husband.

(iii) The trial Court despite being finding income of respondent at Rs.42,229/- per month, granted only Rs.7,000/- per month towards maintenance for children, which is on lower side.

(iv) Learned trial Court committed error in declining maintenance amount to wife Ruchi by concluding that she is not ready and willing to live with respondent and has left her matrimonial home at her own will. This finding recorded by learned Principal Judge is perverse and suffers from impropriety and illegality.

(v) Revision petitioner Ruchi is legally-wedded wife, therefore, her husband- respondent is obliged to pay maintenance to her and her children.

On the aforementioned grounds, it is prayed that the impugned order dated 01-11-2023 be set aside and respondent be directed to pay maintenance amount to the tune of Rs.10,000/- to revision petitioner-Ruchi and Rs.5,000/- to each of children from the date of filing of

application.

Learned counsel for the revision petitioner referring to the evidence on record contends that the petitioner was compelled to leave her matrimonial home and reside at parental home along with her children due to ill-treatment and harassment of her husband. Learned counsel further contends that the evidence on record reveals that respondent is earning salary of Rs.48,000/- per month. His mother is not dependent on him as she is receiving pension. Therefore, the maintenance amount granted in favour of children is inadequate considering the resources available with the respondent and the ever growing need of children in view of inflation and the expenses on education.

Per contra, learned counsel for the respondent submits that the applicant is residing separately without any sufficient reason despite filing of petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. She is not ready and willing to reside with respondent at her matrimonial home. Learned Principal Judge has committed no error in declining maintenance in her favour and has rightly passed the impugned order granting maintenance amount to the tune of Rs.7,000/- per month in favour of minor children. The revision petition is merit-less and deserves to be dismissed.

Heard learned counsel for the parties and perused the record.

Learned trial Court on minute appreciation of evidence on record concluded that applicant Ruchi is living separately without sufficient reasons. Learned trial Court in Paras 10 to 14 of impugned order has properly appreciated the evidence on record and gave reasoned finding that Ruchi has refused to live with her husband Ravindra without any plausible and sufficient reasons. Thus, learned trial Court has committed no error in declining maintenance to the revision petitioner Ruchi. No patent illegality or impropriety is available in aforesaid conclusion of the learned trial Court.

Learned trial Court on appreciation of evidence on record relating to the salary of the applicant concluded that applicant earns Rs.42,229/- per month as salary. Ruchi in cross-examination Para 11 has admitted that her husband Ravindra has deposited certain amount in her account at the time of her delivery. It goes to show that respondent was providing financial support to his wife, when she was at her matrimonial home for delivery of second child. Thereafter, when she did not return to resume matrimonial relationship with the applicant, the applicant did not provide her financial support. The respondent attempted Restitution of Conjugal Relations by submitting petition before the Family Court, Bhopal. Petitioner Ruchi appeared in the proceeding and during mediation, she refused to live with her husband. In such a scenario, learned trial Court

committed no error in concluding that it is not established that the respondent has neglected to maintain his wife.

Learned trial Court on consideration of financial resources available with respondent (salary or Rs.42,229/- per month), his liability and the need of minor children granted maintenance of Rs.4,000/- in favour of Chetnaya aged around 2 years and 7 months and Rs.3,000/- per month for maintenance of Vivan aged around 4 months at the time of filing of application. The minor children are yet to start education. Thus, the amount of maintenance granted by learned Principal Judge, Family Court, is not patently erroneous or grossly inadequate in view of over all facts and circumstances available on record.

Thus, no patent illegality, irregularity or impropriety is available in the impugned order. No case is made out for interference in the impugned order in exercise of supervisory jurisdiction under Section 397 read with Section 401 of CrPC.

Consequently, this revision petition is **dismissed**.

(SANJEEV S KALGAONKAR)
JUDGE