

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

Criminal Revision No.99/2014

Bharti W/o Himanshu Tare & another

Vs.

Himanshu S/o Suresh Tare

O R D E R

Post for 30.09.2015

**(ALOK VERMA)
JUDGE**

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Shri Yashpal Rathore, learned counsel for the applicant.

Shri Sumeet Samvatsar, learned counsel for the respondent.

O R D E R

(Passed on this 30th day of September, 2015)

This criminal revision is filed under Section 19 (4) of Family Court Act read with Section 397, 401 Cr.P.C. and is directed against the order passed by learned Additional Principal Judge, Family Court-Ujjain, District-Ujjain in Miscellaneous Criminal Case No.92/2012 dated 25.09.2013 whereby the learned Judge of the Family Court allowed the application under Section 125 of Cr.P.C. and granted maintenance to the applicants.

Brief facts relevant for disposal of this revision are that the applicant No.1 is wedded wife of respondent-Himanshu Tare. Applicant No.2 is

born out of the wedlock of applicant No.1 and the respondent. After her marriage, applicant No.1 resided with the respondent at her matrimonial house at Indore, and thereafter, applicant No.1 purchased a house at Pune in Maharashtra. The couple shifted to Pune. According to the applicant No.1, though she was very particular in fulfillment of her responsibility towards her matrimonial obligations and also towards her family, the respondent and his parents used to neglect her and ill-treat her. When the applicant No.1 became pregnant, the respondent sent her to her parents home at the behest of his parents and when the applicant was at her parents home, he sold the house at Pune without obtaining permission from the applicant then he started living again with her parents and due to such neglectful behaviour of respondent and his parents, finally, the applicants were thrown out of her matrimonial house. The applicant filed an application under Section 125 Cr.P.C. for grant of maintenance of Rs.15,000/-.

In reply, the respondent's case was that the behaviour of the applicant No.1 was not proper with the respondent and his parents, and therefore, he gave her a notice dated 09.04.2011 only with intention so that the applicant No.1 should realise an improve her behaviour. However, she left his house after notice. This application is filed on false ground just to harass the respondent. He has filed

an application for divorce in a Puna Court. He has to maintain his parents, and therefore, he is unable to maintain the respondent. The applicant No.1 is M.A. in Fine Arts and she teaches 15-20 students and earns Rs.5,000/- to Rs.7,000/- per month. Father of the applicant No.1 was getting pension of Rs.15,000/- to Rs.20,000/- and his brothers are also earning more than Rs.50,000/- per month and applicant No.1 does not require any maintenance from him.

Learned Family Court found that applicant No.1 is living separately from the respondent because of his behaviour towards her. The Family Court also observed that there is no evidence to show that the applicant No.1 is earning sufficient income to financially support herself and applicant No.2. Family Court observed that the respondent admitted that he is getting salary of Rs.37,000/- per month and his father is getting pension of Rs.14,500/- per month, and therefore, while allowing the application, the learned Family Court granted maintenance as Rs.6,000/- applicant No.1 and Rs.3,000/- to applicant No.2. It is further ordered that amount of Rs.6,000/- which the applicant No.2 is getting under the orders of Family Court, Pune shall be adjusted in this amount. As a result of which, the applicant No.1 is getting only Rs.6,000/- under the orders of Family Court, Pune and the applicant No.2 is getting

Rs.3,000/- under the orders of the Family Court at Ujjain and the respondent is paying total Rs.9,000/- towards maintenance to the applicants.

Aggrieved by this order, the present revision is filed for enhancement of amount to Rs.15,000/- per month on the ground that the total income of the respondent is Rs.37,000/- per month. He is under obligation to maintain the applicants. It is also prayed that the Family Court erred in ordering adjustment of amount, which the applicant No.1 is getting under the orders of Family Court, Pune. Under Section 24 of Hindu Marriage Act, as the amount was fixed after taking into consideration the fact that the application under Section 125 of Cr.P.C. is also pending before the Family Court, Ujjain, it is prayed that the respondent is sufficient means to pay Rs.15,000/- per month to the applicants, and therefore, the prayer of the applicant is that the amount be enhanced from Rs.9,000/- to Rs.15,000/- per month.

I have gone through the record of the learned Family Court and also the rival contentions of both the counsel. Pay-slips of the respondent have been filed as Ex. A-1 to A-3. The latest pay-slip placed on record pertains to January, 2013 which is Ex. A-3, according to which, the net pay of the respondent after deduction comes to Rs.32,777/-. After January, 2013 almost 2 ½ years

lapsed and the respondent must be getting net-salary of Rs.35,000/- now. The contention of the respondent is that he has to maintain his parents also cannot be accepted, as he is also under obligation to maintain his wife and daughter. This apart, it is admitted earlier that father of respondent is getting pension of Rs.14,500/- per month. In these circumstances, taking all the facts and circumstances of the case into consideration, the amount of maintenance granted to applicant No.1 is enhanced from Rs.6,000/- per month to Rs.9,000/- per month and amount of maintenance granted to applicant No.2 is enhanced from Rs.3,000/- per month to Rs.5,000/- per month. Thus, a total amount of Rs.14,000/- is granted to the applicants and the amount of Rs.6,000/-, which the applicant No.1 is getting under the orders of Family Court, Pune shall be adjusted in this amount.

With the aforesaid observations and directions, this Criminal Revision stands disposed of.

Certified copy, as per rules.

(Alok Verma)
Judge