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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

**CRIMINAL REVISION No. 1194 of 2016**

**BETWEEN:-**

**PUSHPA RATHORE W/O MUKESH CHAUDHARI, AGED  
ABOUT 34 YEARS, OCCUPATION: SERVICE  
(ASST.TEACHER) PREM COLONY, MANDSAUR  
(MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI PRASHANT UPADHAYAY, ADVOCATE )***

**AND**

- 1. MUKESH S/O SHRI MOHANLAL CHAUDHARI,  
AGED ABOUT 31 YEARS, B-16, PADMAWATI  
NAGAR, ABHINANDAN COLONY MANDSAUR  
(MADHYA PRADESH)**
- 2. MOHANLAL CHAUDHARI S/O  
SHRILAKSHMINARAYAN GUPTA, AGED ABOUT 4  
YEARS, B-16, PADMAWATI  
NAGAR, ABHINANDAN COLONY, MANDSAUR  
(MADHYA PRADESH)**
- 3. MANOJ CHOUDHARY S/O SHRI MOHANLAL  
CHOUDHARY, AGED ABOUT 33 YEARS, B-16,  
PADMAWATI NAGAR, ABHINANDAN COLONY,  
MANDSAUR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SATISH JAIN, COUNSEL FOR RESPONDENTS)***

.....  
***HEARD ON 05.03.2024***

***DELIVERED ON :12.04.2024***  
.....

*This revision petition was heard and the court pronounced the  
following:*

**ORDER**

This criminal revision has been filed by the petitioner under Section 397

r/w Section 401 of Cr.P.C, 1973 (hereinafter referred to as "Cr.P.C.") being aggrieved by the judgment dated 28.05.2016, passed in CRA No.104/2016, by learned 5th ASJ, Mandsaur, whereby the learned Court of 5th Additional Session Judge has dismissed the appeal filed by the respondents by affirming the order dated 19.01.2016 passed in Miscellaneous Criminal case No.147/2013 by JMFC, Mandsaur whereby the learned trial Court has not awarded any amount for monthly house rent but only awarded Rs.25000/- as compensation in favour of the petitioner/wife.

2. Succinctly narrated brief facts leading to the present petition are that love marriage of petitioner and respondent no.1 was solemnized on 23.02.2011. Their marriage was inter-caste hence, they got Rs.50000/- from the State Government and the said amount was kept by respondent no.1 with him and pressurized the petitioner to take more amount of Rs.2,00,000/- from her house. The petitioner was harassed physically and mentally being member of scheduled caste and was also subjected to the cruelty also. Due to the said harassment, she has lodged a complaint against the respondents on 31.03.2013 at police station City Kotwali under Section 498-A of IPC and under Section 3(1)(10) of SC/ST (P.A) Act. In the said complainant, it is submitted that the respondent no.2 and 3 are in Police department, they harassed the petitioner by threatening her to kill her as well as also threatened to implicate her relatives in a false case. Due to the said harassment and cruelty, she started to live separate and filed an application under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (hereinafter referred to as the Act, 2005) before the learned trial Court and prays for Rs.15,00,000/- as compensation from the respondents under Section 22 of the Act. The respondents have filed their reply and denied the allegations of petitioner. The learned trial Court, after considering the

evidence available on record, passed the judgment dated 19.01.2016 and directed respondent nos.1 and 2 to pay Rs.25000/- as compensation in favour of petitioner but nothing was awarded as monthly maintenance and home rent. Being aggrieved, the petitioners have preferred an appeal and the learned first appellate Court, after due considering dismissed the appeal vide the impugned judgments by affirming the order of learned trial Court. Hence, the present revision petition.

3. Learned counsel for the petitioner submits that the learned trial Court as well as learned first appellate Court has committed grave error of law in passing the impugned judgment, it is further submitted that the respondent no.1 and 2 and 3 have harassed the petitioner just after the marriage, they have taken the amount of Rs.50000/- as received from the State Government as incentive amount, she has been forced to live separately from the matrimonial home. The learned trial Court as well as appellate Court have committed grave error of law in granting the compensation on lower side even after finding the cruelty proved upon the petitioner. It is also expostulated that the learned trial Court as well as the leaned appellate court have also erred in not awarding any montly maintenance amount or rent for home. The respondents have harassed the petitioner by threatening her to implicate her family members in false and frivolous cases. The judgments of both the Courts below suffers from legal infirmity and causing great injustice and prejudice to the petitioner. Hence, prays that the compensation amount of Rs.15,00,000/- may be awarded in favour of the petitioner as well as Rs.5000/- per month may kindly be granted as rent amount by setting aside the impugned judgments.

4. On the other hand, counsel for the respondents has opposed the

prayer by submitting that the learned trial Court as well as the learned first appellate Court has not committed any error of law in considering the evidence available on record in its right aspect. Having supported the finding of learned trial Court as well as first appellate Court, the respondents have remonstrated that all the allegations leveled against the respondents are fake and there is nothing on record to show that the respondents, in any manner, have committed cruelty or harassment on the petitioner. Hence, prays that the impugned orders may kindly be set aside and the present petition may dismissed.

5. I have heard the counsel for the parties and perused the record.

6. From the face of record, it is clear that the petitioner is a Govt. Servant and earning well. Further as established by learned trial court and learned first appellate Court, the compensation has been awarded in favour of the appellant after considering the status of her husband who is having less income than the petitioner. Further, so far as the allegations against respondent nos.2 and 3 are concerned, the learned courts below has considered that that after the marriage with respondent no.1, the petitioner has started living separately. She has also not stayed with other respondents, hence, in view of the aforesaid observations, other respondents cannot be held liable for compensation. It is also revealed that on a report of petitioner, respondents have compelled to face a criminal trial before special Court of SC/ST (ACT) wherein they have been acquitted by Special Judge. However, an appeal against the acquittal is said to be pending before the High Court. Under these conditions the impugned findings are adjudicated by both Courts.

7. In this regard, the learned JMFC, Mandsaur after considering the evidence of both parties, properly adjudicated that the petitioner Pushpa PW-1 herself stated that she is Govt. Servant and getting salary of Rs.11500/- per

month whereas the income of non-applicant Mukesh is only Rs.4000/- Per month as per his statements. Under these conditions, maintenance in favour of petitioner cannot be awarded from respondent no.1. The learned first appellate court considering the findings of learned trial Court, affirmed the same. Moreover, the present revision petition is involving principle of concurrent findings by the Courts below. Hence, in the considered opinion of this Court, the fact findings of learned Courts below does not warrant any interference by this Court in limited scope of revisional jurisdiction.

8. So far as the revisional power of this Court is concerned, it is well settled legal position that the jurisdiction of the revisional Court is not as that of an appellate Court, which is free to reach its own conclusion on evidence untrammelled by any finding entered by the trial Court. Actually the jurisdiction of revisional Court has a limited scope. The revisional Court can interfere with the impugned order of Courts below *only when it is unjust and unfair*. In case where the order of learned trial as well as appellate Court does not suffer from any infirmity or illegality, merely because of equitable considerations, the revisional Court has no jurisdiction to re-consider the matter and pass a different order in a routine manner.

9. On this aspect, the law laid down by this Court in the case of **Sharad Dubey & Ors. vs. Mahesh Gupta & Ors. 2005 (2) MPJR 71**, is worth to refer here:-

"The jurisdiction of revisional Court is limited. The revisional Court can interfere with the impugned order of subordinate Court only when it is unjust and unfair. The examination of the record is limited in scope. In a case where the order of inferior court does not suffer from any infirmity

merely because of equitable considerations of revisional Court is not competent to call upon the inferior Court to reconsider the matter."

10. In terms of the revisional jurisdiction in examining the orders passed by trial Court, the following excerpt of the judgment of Hon'ble Apex Court in the landmark judgement of *Amit Kapoor vs. Ramesh Chandra reported as (2012) 9 SCC 460* is also propitious to reproduce here under:-

"12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. ...."

11. In view of the aforesaid discussion in entirety as well as the material available on record, the law laid down by Hon'ble Apex Court in the case of *Amit Kapoor (supra)*, this Court does not find any illegality, irregularity or

impropriety in the impugned order passed by the learned appellate Court. Therefore, no interference is warranted.

12. As such, this revision petition filed by the petitioner fails. Resultantly, the present petition is dismissed and the impugned order of the learned appellate Court is also hereby affirmed.

13. Pending application, if any, also closed.

14. A copy of this order be sent to the trial Court concerned for information.

Certified copy, as per rules.

AMIT



**(PREM NARAYAN SINGH)**  
**JUDGE**