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

**BEFORE
HON'BLE SHRI JUSTICE RAJENDRA KUMAR (VERMA)**

ON THE 22nd OF SEPTEMBER, 2022

CRIMINAL REVISION No. 3365 of 2019

BETWEEN:-

1. **SMT. SHEETAL VADIA W/O DEEPAK VADIA,
AGED ABOUT 28 YEARS, OCCUPATION: HOUSE
WORK 82, GOPALPURA MAXI ROAD UJJAIN
(MADHYA PRADESH)**

2. **AAHANA THROUGH NATURAL GUARDIAN SMT.
SHEETAL VADIYA W/O DEEPAK VADIYA, AGED
ABOUT 28 YEARS, OCCUPATION: HOUSEHOLD
82 GOPALPUR MAKSI ROAD UJJAIN (MADHYA
PRADESH)**

(BY SHRI SANJAY KUMAR SHARMA, ADVOCATE)

.....PETITIONERS

AND

**DEEPAK VADIA S/O PYARELAL JI, AGED ABOUT
44 YEARS, OCCUPATION: SERVICE ASHOK
COLONY MANDIR KE SAMNE BIRLAGRAM
NAGDA (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI SURENDRA KUMAR GUPTA, ADVOCATE)

.....
*This revision coming on for admission this day, the court passed the
following:*

ORDER

The revisionist has assailed the order dated 28.06.2019 passed by the Principal Judge, Family Court, Ujjain in Miscellaneous Criminal Case No.11/2019 by which the revisionist's application for interim maintenance has been allowed and only Rs.11,000/- per month has been awarded to the revisionist (Rs.10,000/- to revisionist no.1 and Rs.1,000/- to revisionist no.2).

Hence, this petition for enhancement of the maintenance amount has been filed by the revisionist-wife.

The facts in nutshell are that revisionist no.1-wife and revisionist no.2-minor daughter of revisionist no.1 and the respondent filed an application under Section 125 of Cr.P.C. for grant of maintenance alongwith the application for interim maintenance. Respondent is working as Executive Engineer in MPGCL, Gandhi Sagar, Mandsaur and is an government employee. The learned Family Court awarded Rs.11,000/- as maintenance to the revisionists.

Learned counsel for the revisionists submits that respondent/husband was earning more than Rs.95,000/- per month in the month of December, 2018 and pay slip of month of December, 2018 is on record. As per the pay slip his gross salary is Rs.95,360/- and net salary Rs.75,576/-. The revisionists have the right to live as per the status of the respondent/husband and therefore the Family Court awarded a sum of Rs.11,000/- (Rs.10,000/- to revisionist no.1-wife and Rs.1000/- to revisionist no.2-minor daughter). Hence prays that the petition be allowed and the amount of maintenance be enhanced.

Learned counsel for the respondent opposes the prayer and prays for dismissal of the revision by raising preliminary objection that the revision against an order of interim maintenance is not maintainable being an interlocutory order and relied upon the order dated 22.04.2022 in the case of **Vishal Kochar Vs. Smt. Pulkit Sahni and another in Criminal Revision Petition No.462/2021 of High Court of Judicature for Rajasthan Bench at Jaipur.**

Heard learned counsel for the parties and perused the record.

So far as the preliminary objection regarding maintainability of this revision is concerned, the Division Bench of this Court in the case of **Aakansha Shrivastava Vs. Virendra Shrivastava reported in 2010 (3)**

MPLJ 151 has held that the order of interim maintenance which affects right of parties substantially cannot be treated as interlocutory order and criminal revision can be preferred under Section 19(4) of the Family Court Act. Hence, in the light of the above proposition arguments regarding non maintainability of the revision advanced by the counsel for the respondent has no force.

The Hon'ble Apex Court in the case of **Rajnish Vs. Neha and another** reported in **AIR 2021 SC 569** it has been held as under:-

Guidelines/Directions on Maintenance Maintenance laws have been enacted as a measure of social justice to provide recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy.

(i) The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. In *Manish Jain v Akanksha Jain* this Court held that the financial position of the parents of the applicant-wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for

her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the Court should mould the claim for maintenance based on various factors brought before it.

On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependant family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied and has educational qualifications.

On perusal of the order it crystal clear that learned Family Court found that respondent being Executive Engineer in MPGCL, Gandhi Sagar, Mandasaur is earning Rs.75,576/- per month and pay slip as mentioned above is on record, therefore it is not disputed at this juncture that respondent was earning more than Rs.75,000/- in the month of December, 2018. There is nothing on record to show that respondent has liabilities other than revisionists. Hence, in view of the aforesaid forgoing discussions, in the considered opinion of this Court, the revisionists have the right to live as per the status of the respondent/husband and in view of the socio economic and financial status of the respondent/husband, as discussed in detail by the learned Family Court.

Resultantly, this criminal revision filed on behalf of the revisionists is allowed. The impugned order dated 28.06.2019 regarding maintenance amount is hereby modified to the extent that the maintenance amount is enhanced from Rs.11,000/- to Rs.20,000/- (revisionist no.1-wife from Rs.10,000/- to

Rs.15,000/- p.m. and that of revisionist no.2-minor daughter from Rs.1,000/- to Rs.5,000/- p.m.) from the date of the order.

With the aforesaid, this criminal revision stands disposed off.

A copy of this order be sent to the Family Court concerned for information and necessary compliance.

**(RAJENDRA KUMAR (VERMA))
JUDGE**

RJ

