

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 1st OF AUGUST, 2024

MISC. CRIMINAL CASE No. 27645 of 2023

VASIM

Versus

NOORJHA

Appearance:

Applicant by Shri Mohammad Ikram Ansari - Advocate.

Respondent by Shri Nilesh J. Dave - Advocate.

ORDER

This petition under Section 482 of Code of Criminal Procedure, 1973 (herein after referred to as the Code) has been filed for setting aside order dated 07.06.2023 passed in Criminal Revision No.13 of 2023 (Waseem S/o Abdul Rashid Khan v. Noorjahan W/o Waseem Khan) by learned 3rd Additional Sessions Judge, Barwaha, District West Nimar Mandleshwar (MP).

2. The facts, in brief, are that the applicant and respondent were married on 23.03.2017 according to Muslim Customs. After some time of their marriage, the respondent was tortured and harassed physically and mentally on the demand of dowry. For the reason, as aforesaid, the respondent is residing with her parents. She filed an application under Section 125 of the Code for grant of maintenance. This application vide order dated 14.02.2023 passed by learned Judicial Magistrate First Class, Barwaha, District West Nimar Mandleshwar (MP) in MJCR No.18 of 2018 was allowed and applicant was directed to pay interim maintenance of Rs.4,000/- (rupees four thousand) per month to the respondent.

3. Learned counsel for the applicant submits that the applicant has no means to

pay interim maintenance, the order has been passed without going into the capacity of the applicant to pay. He is suffering from fits / convulsion and the respondent herself is residing away from the applicant, without sufficient reasons. On these grounds, learned counsel for the applicant urges the Court for allowing the petition and setting aside the impugned order.

4. Heard learned counsel for the parties and perused the record.

5. It is not in dispute that marriage between the applicant and respondent was solemnized as per Muslim traditions and customs on 23.03.2017. The ground that the respondent is living away from the applicant, without any sufficient reasons, has been raised and considered by both the Courts below. It is not only the disease of fits of the applicant, but harassment meted out to the respondent on the ground of demand of dowry, has been the cause of her living separately from the applicant.

6. Learned counsel for the applicant could not point out any illegality, impropriety and / or incorrectness in the impugned order and even the applicant could not point out the grounds to invoke the inherent powers under Section 482 of the Code.

7. Resultantly, this petition being sans merit fails and is hereby dismissed.

(BINOD KUMAR DWIVEDI)
JUDGE