

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

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

ON THE 6th OF JULY, 2023

CRIMINAL REVISION No. 2229 of 2022

BETWEEN:-

**CHANDRAVEER S/O SHRI RAMSINGH SISODIYA,
AGED ABOUT 38 YEARS,
OCCUPATION: N.A.
R/O.VILLAGE GARDORI,
P.S. RANTHAJANA, POST KALYANPURA,
DIST.: PRATAPGARH. (RAJASTHAN)**

....PETITIONER

(SHRI ARPIT SINGH - ADVOCATE)

AND

- 1. SMT. ANITA KUNWAR
W/O SHRI CHANDRAVEER SINGH SISODIYA,
AGED ABOUT 35 YEARS,
OCCUPATION: TEACHER
R/O. VILL. GARDORI, P.S. RANTHAJANA POST
KALYANPURA PRATGARH, (RAJASTHAN).
PRESENT ADD. HOUSE NO. 133, DEVRA DEV,
NARAYAN NAGAR,
P.S. AUDYOGIK REGION, DIST.:RATLAM
(MADHYA PRADESH)**
- 2. SHIVENDRA SINGH S/O SHRI CHANDRAVEER
SINGH SISODIYA,
AGED ABOUT 16 YEARS,
R/O. VILL. GARDORI, P.S. RANTHAJANA
POST KALYANPURA PRATGARH
AT PRESENT H.NO. 133,
DEVRA DEV NARAYAN NAGAR,
P.S. AUTYOGIK REGION, DIST.:RATLAM
(MADHYA PRADESH)**

....RESPONDENTS

(SHRI TUSHAR BHEDASGAONKAR - ADVOCATE)

CRIMINAL REVISION No. 2244 of 2022

BETWEEN:-

1. SMT. ANITA KUNWAR
W/O SHRI CHANDRAVEER SINGH SISODIYA,
AGED ABOUT 35 YEARS,
OCCUPATION: TEACHER
R/O. VILL. GARDORI, P.S. RANTHAJANA POST
KALYANPURA PRATGARH, (RAJASTHAN).
PRESENT ADD. HOUSE NO. 133, DEVRA DEV,
NARAYAN NAGAR,
P.S. AUDYOGIK REGION, DIST.:RATLAM
(MADHYA PRADESH)

2. SHIVENDRA SINGH S/O SHRI CHANDRAVEER
SINGH SISODIYA,
AGED ABOUT 16 YEARS,
R/O. VILL. GARDORI, P.S. RANTHAJANA
POST KALYANPURA PRATGARH
AT PRESENT H.NO. 133,
DEVRA DEV NARAYAN NAGAR,
P.S. AUTYOGIK REGION, DIST.:RATLAM
(MADHYA PRADESH)

.....PETITIONERS

*(SHRI TUSHAR BHEDASGAONKAR -ADVOCATE)***AND**

SHRI CHANDRAVEER S/O SHRI RAMSINGH SISODIYA,
AGED ABOUT 38 YEARS,
OCCUPATION: N.A.
R/O.VILLAGE GARDORI,
P.S. RANTHAJANA, POST KALYANPURA,
DIST.: PRATAPGARH. (RAJASTHAN)

.....RESPONDENTS

(SHRI ARPIT SINGH - ADVOCATE)

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

ORDER

Both the Criminal Revisions are arising out of the same order and both the are being heard and are being decided with this common order analogously.

1.These criminal revisions have been preferred under Section 397 read

with Section 401 of Cr.P.C. by the petitioners i.e. the Husband and Wife respectively being aggrieved by the order dated 14.05.2022 passed by the learned Principal Judge, Family Court, Ratlam in MJCR No.214/2017 whereby learned Principal Judge allowed the application under Section 125 of Cr.P.C. filed by the respondents and directed the petitioner/husband to pay Rs.10,000/- and Rs.5000/- to respondent no.1 & 2 (wife and son) respectively, per month as maintenance.

2. Brief facts of the case are that, the respondents(wife and son) filed an application under Section 125 of Cr.P.C. before the Family Court, Ratlam seeking maintenance from the petitioner/husband. As per her application, she got married with the respondent by Hindu rights and rituals on 27.04.2003. She stayed in her matrimonial house for almost four years, wherein her husband along with his family members started harassing and torturing her therefore, she started residing separately in a rented house along with her son however, her husband and his family members continued to torture her physically and mentally. On one such occasion, when her husband physically assaulted her, then she called for police, thereafter he was arrested, however the matter was mutually settled between the parties and she shifted to a rented house in Pratapgarh. It is further averred in the application that her husband and his family members attempted to set her ablaze therefore, she came back to her maternal house to live with her father. Hence she filed an application under Section 125 of Cr.P.C seeking Rs.35,000/- as maintenance for herself and her son.

3. The aforesaid facts were denied by the husband in his reply to the application by stating that after 3 to 4 months of the marriage the respondent no.1(wife) shifted to Ratlam for further studies and after completing her studies,

she returned back to village Gardodhi. As she wanted to work, the petitioner/husband took her to Pratapgarh where they lived in a rented house, however the respondent no.1/wife used to quarrel with the petitioner/husband on petty issues and she was reluctant to stay with him in the Village therefore, she started implicating him in false cases, however, no such case was registered. Due to the aforesaid act by the respondent/wife and on account of the accident met by the petitioner/husband, he was expelled from his work on 30.08.2017, since then he is unemployed and has no source of income. The respondent no.1/wife was working and earning her source of income.

4. Learned trial Court, on due consideration of the evidence adduced by the parties, allowed the application vide the impugned order and awarded monthly maintenance of Rs.10000/- per month to the respondent no.1(wife) and Rs.5000/- per month to the respondent no.2(son) (till he attains majority) from the date of the application.

5. Learned counsel for the petitioner has submitted that the learned trial Court has failed to consider the fact that the respondent no.1 is a well qualified lady and is working in Gram Panchayat earlier and thereafter after completing her M.Ed after marriage, she continued working and at present she is earning a handsome salary and she is residing separately from the petitioner without any cogent reason. The petitioner was regularly discharging his liabilities with regard to education expenses of his son which has been admitted by the respondent no.1 also in her cross examination. It is further submitted that the respondent has filed the false complaint against the respondent and harassed the petitioner every time. Further the respondent no.1 has failed to prove her contentions that the petitioner earns handsome salary so also she failed to

produce any documents regarding assets of the petitioner. On the contrary the petitioner has admitted his earnings before the Court below but at present he was relieved from his job due to not being in a condition to work due to an accident. The amount of maintenance has been granted by the learned Court below by ignoring the fact that the petitioner is jobless and the properties in question as alleged by the respondent no.1/wife does not belong to the petitioner. Hence, counsel prayed for setting aside the impugned order or reduction of the maintenance amount.

6. Learned counsel for the respondent has vehemently opposed the aforesaid by submitting that the petitioner is working in a cloth shop at Prathapgarh and is earning Rs.20,000/- as monthly income. Apart this the petitioner is having agriculture land getting an income of Rs.50,000/- from the same. Further the respondent no.1 was subjected to harassment and on one such occasion the petitioner attempted to set her ablaze. The petitioner has failed to fulfill his responsibility towards respondent no.2. Further allegation is that the petitioner has not disclosed the correct details of salary and property.

7. In support of his contentions learned counsel relied upon the judgment of Hon'ble Supreme Court in the case of *Chaturbhuj vs. Sita Bai* reported as *2008(2) J LJ 70, Major Ashok Kumar Singh vs. Vith Additional Sessions Judge, Varnasi and Ors.* reported as *1991 Cri.L.J. 2357*. The respondent/wife along with her son are dependent on her father and hence, in view of the averments made and earning of the petitioner, respondents are entitled to get Rs.35,000/- per month. Therefore, prays for enhancement of the interim maintenance in favour of the respondents.

8. I have heard learned counsel for the parties and perused the record.

9. From the face of record, it is evident that in compliance of the Hon'ble

Apex Court judgment in *Rajensh v. Neha & Anr. (2021)2 SCC 324* both the parties filed their respective affidavits of assets and liabilities. Respondent /Wife has specifically stated that her husband is earning about Rs.20000/- and having income from agricultural land, however, no such document regarding income from agricultural land has been produced, even, from para 30 of the impugned order it is clear that the husband has transferred the right of his agricultural land to his brother on 22.06.2017 without a single penny and reason for the same has been assigned that he was having debt due which he has transferred the land in favour of his brother. Further husband has not produced any evidence or medical documents before the trial court to prove that he has been relieved from his work due to his disability on account of an accident met by him. On appreciation of the evidence and on considering the ancestral property, family status and the statutory liability, the learned family court has rightly awarded maintenance to wife and child as mentioned in para no.1 of this order.

10. So far as the question whether the wife is able to maintain herself or not, as per husband, she is working as Tehsil Secretary, in B.Ed. College, Gram Panchayat Kalyapur and earning handsome amount, but there is no corroborative evidence produced by the husband proving that she is earning. So it cannot be said that the wife is able to maintain herself or her child.

11. Be that as it may, a destitute lady, being a wife cannot be deprived of obtaining maintenance from her husband only on the basis that she is educated and earning lady. On the basis of earning something for her livelihood along with her child, the wife cannot be debarred from receiving maintenance from her husband. In order to reckon the maintenance amount, it

should be kept in mind that the wife can neither be allowed to lead a luxurious life, nor she can be compelled to lead a penurious life. Nevertheless, her dignity and status should be maintained in accordance with the status of her matrimonial family.

12. In view of the foregoing observations and discussions and after perusal of the impugned order passed by learned Court below, this Court is of the considered opinion that the impugned order is just and proper and there is no infirmity, illegality or incorrectness found in the same. The maintenance so awarded is justified and proper in view of the income of husband as per the record, Hence, the learned Court below has not erred in considering the evidence available on record while passing the impugned order.

13. In view of the aforesaid, both the petitions filed on behalf of the husband as well as on behalf of wife, are dismissed.

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

15. A copy of this order be placed in the record of CRR No.2244/2022.

(PREM NARAYAN SINGH)
JUDGE