

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Rev. No.253 of 2016

Gautam Verma, son of Late Ramjee Ram, Resident of Upper Bazar,
Mahabir Chowk, P.O-G.P.O, P.S-Kotwali, District-Ranchi
..... Petitioner

-Versus-

1. The State of Jharkhand
2. Amrita Verma, Daughter of Shri Umesh Prasad, w/o Gautam
Verma, Resident of Chiragora, P.O-Dhanbad, P.S-Dhanbad,
Distt.-Ranchi
.....Opposite Parties

CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For the Petitioner : Mr. Shekhar Prasad Sinha, Advocate
For O.P No.2 : Mr. Rohan Mazumdar, Advocate
For the State : A.P.P

(Through V.C.)

10/07.07.2020

The petitioner who is the husband is aggrieved of the Judgment dated 23.09.2015 by which he has been directed to pay Rs.5,000/- per month to his wife and Rs.1,000/- per month to his minor daughter for their maintenance. The learned Family Court Judge has awarded Rs.5,000/- in lump-sum as litigation cost to his wife.

2. Mr. Shekhar Prasad Sinha, the learned counsel for the petitioner has confined his argument to the quantum of maintenance.

3. In "*Shamima Farooqui Vs. Shahid Khan*" reported in (2015) 5 SCC 705, the Hon'ble Supreme Court has observed as under:

"14. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does

not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right".

4. In the proceeding of Maintenance Petition No.78 of 2013 the petitioner did not lead any evidence and, accordingly, the application under section 125 of the Code of Criminal Procedure was allowed *ex-parte*.

5. The wife of the petitioner has examined herself and stated that her husband has tortured her in connection to demand of Rs.2 lacs and finally she was ousted from her matrimonial home with her minor child on 19.11.2011.

6. The petitioner was married with the applicant on 27.07.2010 and from the wedlock one daughter was born. After birth of the daughter the petitioner started demanding dowry and tortured her. She made complaint to the "Mahila Police Station", and with intervention of "Mahila Police Station" her marriage was re-solemnized and she joined her husband in her matrimonial home on 08.01.2012. She was again assaulted by her husband and sent to her parents' place. She has deposed in the court that since then she is living there and she has no independent source of income whereas her husband earns Rs.30,000/- to Rs.35,000/- per month through clothes business.

7. The learned Principal Judge, Family Court, Dhanbad has held that the applicant who is O.P No.2 in the present proceeding is legally married wife of the petitioner and from the wedlock a daughter was born. She was ousted from her matrimonial home and she has reasonable excuse not to live in the company of her husband. I find that the stand taken by the wife of the petitioner that she has no independent source of income and she is unable to maintain herself and her minor child has remained uncontroverted. Moreover, even some income of a wife is not a ground to deny her claim for maintenance. In a country like India it is not uncommon that a wife may not be able to produce documentary evidence on income of her husband and unless the husband produces indisputable documents of his income, quantum of maintenance

to his wife is to be decided taking a reasonable view about the matter.

8. The object behind section 125 of the Code of Criminal Procedure is to ensure that a wife, minor children or helpless parents do not suffer in penury. In *"Capt. Ramesh Chander Kaushal v. Veena Kaushal"* reported in (1978) 4 SCC 70, the Hon'ble Supreme Court has held as under:

"9. This provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes calling for construction by courts are not petrified print but vibrant words with social functions to fulfill. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social 4 relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advance the cause — the cause of the derelicts."

9. In view of the aforesaid discussions and keeping in mind the limitations of the revisional jurisdiction [refer, *"Deb Narayan Halder Vs. Anushree Halder(SMT)"* reported in (2003) 11 SCC 303], I am not inclined to interfere in this matter and, accordingly, Criminal Revision No.253 of 2016 is dismissed.

(Shree Chandrashekhar, J.)