NEUTRAL CITATION NO. 2026:MPHC-IND:18129

CRR No.1229/2022

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

CRIMINAL REVISION No. 1229 of 2022

Appearance:

Shri Nilesh Dave - Advocate for the petitioner.

Shri Neelesh Agrawal –Advocate for the respondents.

Reserved on : 02/07/2026

Post on : 08/07/2026

ORDER

1. This Criminal Revision has been preferred under Section 19(4) of the Family Courts Act, 1984, read with the relevant provisions of the Code of Criminal Procedure, challenging the

legality, propriety, and correctness of the final order dated 08/03/2022 passed by Principal Judge, Family Court, Ratlam, District Ratlam, M.P., in MJCR No. 48/16.

2. By the aforesaid impugned order, the learned Family Court allowed the application for maintenance filed by the non-applicants under Section 125 of the Cr.P.C. The applicant/husband (revisionist) has been directed to pay maintenance of Rs. 10,000/- per month to non-applicant No. 1 (wife) and Rs. 5,000/- per month each to non-applicant No. 2 and non-applicant No. 3 (children), totaling Rs. 20,000/- per month.

3. The applicant/husband has approached this Court through criminal revision praying that the impugned order dated 08/03/2022 be set aside on the grounds of perversity and non-appreciation of material facts, particularly the statutory bar under Section 125(4) of the Cr.P.C.

FACTS IN BRIEF

4. The brief facts necessary for the disposal of this revision are that the applicant and non-applicant No. 1 are legally wedded husband and wife, and non-applicant No. 2 and non-applicant No. 3 are their children born out of the said wedlock.

5. Disputes arose between the parties, leading non-applicant No. 1 to reside separately with her parents. She subsequently filed an

application under Section 125 of the Cr.P.C. before the learned Principal Judge, Family Court, Ratlam, seeking maintenance for herself and the two minor children.

6. The applicant/husband pleaded before the lower court that non-applicant No. 1 voluntarily left to live at her parents' home and did not inform him of the birth of non-applicant No. 3. The applicant/husband bore the hospital expenses, yet non-applicant No. 1 returned to her parents' house with the child without informing the applicant’s family.

7. The record indicates that on 28/05/2013, the revisionist submitted an application before the Women's Counseling Center. Upon the condition that a concrete wall be built between house numbers 139 and 140 to separate the kitchen, non-applicant No. 1 returned, but resumed quarrels shortly thereafter.

8. It is an admitted fact on record that non-applicant No. 1 had registered a case under Section 498-A of the I.P.C. against the revisionist and his family members (Crime No. 38/13 at P.S. Mahila Thana Ratlam). The family members were discharged/acquitted on 26/09/2016 by the High Court, and the revisionist was acquitted by the trial court vide order dated 10/08/2019.

CONTENTIONS OF THE REVISIONIST

9. The revisionist contends that the impugned order is contrary to law and facts on record, and that the learned Family Court decided the maintenance solely on unwarranted inferences and presumptions.

10. It is vehemently argued that the learned Family Court committed a grave error in not considering the mandatory provisions of Section 125(4) of the Cr.P.C., which specifically stipulates that a wife living separately without any sufficient cause or reason is not entitled to maintenance.

11. The revisionist further submits that non-applicant No. 1 is running a beauty parlor and earns an independent income. This fact was deliberately hidden by her but was admitted by her brother, Shivshakti, during his statement, which the trial court failed to consider.

12. The revisionist asserts that his conduct was natural as he produced his pay slips demonstrating expenses regarding a home loan and the medical treatment of his old-aged parents. It is contended that the trial court failed to appreciate these liabilities while assessing the quantum of maintenance.

13. It is also urged that there is no cogent and credible evidence produced by the wife to justify her separate living, especially considering that the revisionist has already been acquitted of the charges under Section 498-A of the I.P.C.

CONTENTIONS OF THE RESPONDENT

14. *Per contra*, non-applicant No. 1 has strongly opposed the revision petition, supporting the impugned order and praying for the dismissal of the present revision.

15. It is submitted by the non-applicant that at the time of marriage, her mother gave dowry and gifts as per her status, which are still in the possession of the revisionist. She alleged that shortly after marriage, the revisionist and his family began quarreling over trivial matters and tortured her physically and mentally for dowry.

16. Non-applicant No. 1 further contended that when she became pregnant again, the cruelty escalated, and they demanded three lakh rupees. She alleged that on 19.10.2013, she and her child were thrown out of the matrimonial house, forcing her to lodge the FIR at the Women's Police Station, Ratlam.

17. She submitted that since 19.10.2013, the revisionist has made no arrangements to bring her back or provide maintenance, compelling her to live with her widowed mother and remain completely dependent on her.

ANALYSIS AND CONCLUSION

18. At the very outset, it is imperative to delineate the scope and ambit of the revisional jurisdiction exercised by this Court under

Section 19(4) of the Family Courts Act, 1984, read with the Code of Criminal Procedure, 1973. The jurisdiction vested in this Court is inherently supervisory in nature and is distinct from the regular appellate jurisdiction.

19. A revisional court does not function as a regular court of appeal. Consequently, a routine re-appreciation or re-evaluation of evidence is generally impermissible unless it is demonstrably required to prevent a gross miscarriage of justice. The subjective satisfaction of the trial court based on evidence cannot be lightly interfered with. However, interference in revisional jurisdiction is strictly warranted in cases where the impugned order suffers from a patent jurisdictional error, material irregularity, manifest error apparent on the face of the record, or where the findings recorded by the subordinate court are entirely perverse and legally unsustainable.

20. Guided by the specific directions and the factual matrix supplied on record, this Court is called upon to determine a singular, definitive issue: whether the reasoning adopted by the learned Family Court that a lack of harmony or the husband paying more attention to other family members constitutes a justifiable ground for the wife to live separately is legally sustainable in view of the statutory bar encapsulated under Section 125(4) of the Cr.P.C.

21. To adjudicate this issue, it is necessary to examine the specific reasoning adopted by the learned Family Court. The trial court, in its endeavor to justify the separate living of non-applicant No. 1, recorded its findings in paragraphs 31 and 32 of the impugned judgment.

22. The learned Family Court held as follows:-

> "31- अनावेदक ने अपने प्रतिपरीक्षण के पैरा 17 में यह बताया है कि वर्तमान में यदि आवेदिका बच्चों सहित अनावेदक के साथ रहना भी चाहे तो भी वह उन्हें साथ में रखने के लिए तैयार नहीं है, जहां तक बिना किसी उचित आधार के आवेदिका का पृथक रहना अनावेदक की ओर से कहा जा रहा है, इस संबंध में स्वयं अनावेदक लोकेश अना.सा. 1 ने अपने मुख्य परीक्षण में ही बताया है कि विवाह के समय उसका संयुक्त परिवार था. यदि अनावेदक के लिए अनावेदक की मां या भाभी कभी कभी टिफिन बना दे तो आवेदिका नाराज हो जाती थी और कहती थी कि प्रत्येक कार्यों के लिए परिवार के लोगों से क्यों पूछते हो। यह भी बताया है कि आवेदिका की जिद के कारण उसने आवेदिका को अपनी छोटी दादी के खाली मकान में रहने के लिए आवेदिका की व्यवस्था कर दी थी, वहां चार दिन रहने के उपरांत आवेदिका बिना बताये चली गयी थी और धमकी देती थी कि झूठे केस में फसा देगी, तब अनावेदक ने मई, 2013 में पुलिस को आवेदन-पत्र दिया था, आवेदिका की मां ने तब कहा था कि दोनों मकानों के मध्य दीवार बनाकर अलग किचिन बना दो तभी आवेदिका आयेगी. इसके बाद दीवार बनाकर किचिन अलग कर दिया गया था, लेकिन उसके बाद भी आवेदिका ने अनावेदक के माता-पिता

के साथ रहने से इंकार कर दिया था. उसका कहना था कि अपने घर के लोगों से कोई संबंध मत रखो, यह भी उल्लेखनीय है. कि अनावेदक ने अपने प्रतिपरीक्षण में यह भी बताया है कि उसे नहीं मालूम कि उसका पहला पुत्र किस स्कूल में पढ़ता है और न ही कभी उसने स्कूल में जाकर इस संबंध में जानकारी ली कि उसके पुत्र की पढ़ाई का खर्च और स्कूल फीस कितनी है, इसी तरह दूसरे पुत्र के बारे में भी कथन किया है।

32- अनावेदक ने अपने प्रतिपरीक्षण में यह भी बताया है कि यदि वर्तमान में आवेदिका अपने बच्चों सहित उसके साथ रहना भी चाहे तो भी वह साथ में रखने के लिए तत्पर नहीं है, अनावेदक द्वारा अपनी दोनों पुत्र संतानों के संबंध में भी कभी कोई जानकारी नहीं ली गयी है कि वह किस स्कूल में किस प्रकार अध्ययनरत हैं,जहां तक आवेदिका का अनावेदक से पृथक होकर रहने का प्रश्न है तो अभिलेख पर उपलब्ध साक्ष्य से यह पाया जा रहा है कि आवेदिका तथा अनावेदक के परिवार के अन्य सदस्यों के मध्य सामंजस्य ठीक नहीं था, अनावेदक आवेदिका की अपेक्षा अपने परिवार के अन्य सदस्यों की ओर अधिक ध्यान दे रहा था, इसलिए आवेदिका इन पर्याप्त कारणों से अनावेदक से पृथक रह रही है एवं आवेदकगण अनावेदक से भरण-पोषण की राशि प्राप्त कर पाने के अधिकारी हैं। इस तरह विचारणीय बिंदु क. 'ए' का निराकरण आवेदकगण के हित में एवं अनावेदक के विरूद्ध किया जाता है।“

23. A careful perusal of the aforementioned paragraphs reveals that the sole reason ascribed by the learned trial court for non-applicant No. 1 living separately is that there was no harmony

between her and the other members of the applicant's family, and that the applicant was paying more attention to his family members than to her.

24. This reasoning adopted by the learned trial court is patently erroneous and suffers from severe perversity. In the realm of matrimonial jurisprudence, a lack of harmony with in-laws or a husband dedicating attention and care to his parents and family members cannot, under any circumstance, be construed as a justifiable or sufficient ground for a wife to abandon the matrimonial home and subsequently claim maintenance.

25. Section 125(4) of the Cr.P.C. clearly stipulates that no wife shall be entitled to receive maintenance from her husband if, without any sufficient reason, she refuses to live with him. A valid and sufficient reason in law implies circumstances such as complete neglect, deprivation of fundamental rights by the husband, failure to protect the wife from severe cruelty, or subjecting her to continuous physical or mental abuse.

26. The expectation that a husband must severe ties with or withdraw attention from his parents to appease his wife is legally recognized as unreasonable. The Hon'ble Apex Court in the case of **Narendra v. K. Meena, (2016) 9 SCC 455 : (2016) 4 SCC (Civ) 519 : 2016 SCC OnLine SC 1114 at page 458,** categorically held:

"11. *We feel that there was no fault on the part of the appellant nor was there any reason for the respondent wife to make an attempt to commit suicide. No husband would ever be comfortable with or tolerate such an act by his wife and if the wife succeeds in committing suicide, then one can imagine how a poor husband would get entangled into the clutches of law, which would virtually ruin his sanity, peace of mind, career and probably his entire life. The mere idea with regard to facing legal consequences would put a husband under tremendous stress. The thought itself is distressing. Such a mental cruelty could not have been taken lightly by the High Court. In our opinion, only this one event was sufficient for the appellant husband to get a decree of divorce on the ground of cruelty. It is needless to add that such threats or acts constitute cruelty. Our aforesaid view is fortified by a decision of this Court in Pankaj Mahajan v. Dimple [Pankaj Mahajan v. Dimple, (2011) 12 SCC 1 : (2012) 1 SCC (Civ) 685 : (2012) 1 SCC (Cri) 345] wherein it has been held that giving repeated threats to commit suicide amounts to cruelty.*

12. *The respondent wife wanted the appellant to get separated from his family. The evidence shows that the family was virtually maintained from the income of the appellant husband. It is not a common practice or desirable culture for a Hindu son in India to get separated from the parents upon getting married at the instance of the wife, especially when the son is the only earning member in the family. A son, brought up and given education by his parents, has a moral and legal obligation to take care and maintain the parents, when they become old and when they have either no income or have a meagre income. In India, generally people do not subscribe to the western thought, where, upon getting married or attaining majority, the son gets separated from the family. In normal circumstances, a wife is expected to be with the family of the husband after the marriage. She becomes integral to and forms part of the family of the husband and normally without any*

> *justifiable strong reason, she would never insist that her husband should get separated from the family and live only with her.*
>
> ***13.*** *In the instant case, upon appreciation of the evidence, the trial court came to the conclusion that merely for monetary considerations, the respondent wife wanted to get her husband separated from his family. The averment of the respondent was to the effect that the income of the appellant was also spent for maintaining his family. The said grievance of the respondent is absolutely unjustified. A son maintaining his parents is absolutely normal in Indian culture and ethos. There is no other reason for which the respondent wanted the appellant to be separated from the family—the sole reason was to enjoy the income of the appellant. Unfortunately, the High Court considered this to be a justifiable reason."*

27. In the present case, the record unequivocally demonstrates that the cruelty case filed by non-applicant No.1 against the revisionist has been dismissed. The family members were acquitted in 2016, and the revisionist was acquitted of all charges under Section 498-A IPC on 10.08.2019. This completely demolishes any defense of cruelty as a justification for the wife's separate residence.

28. Furthermore, the judicial record of the connected civil proceedings firmly establishes that the cruelty was, in fact, committed by the wife against the husband. Upon perusal of the order dated 13/11/2021 passed in CIS Case No. RCSHM/2300067/2015, the Court recorded specific findings in paragraphs 32, 33, and 34, stating:

"32-उभयपक्ष की ओर से प्रस्तुत की गई साक्ष्य एवं दस्तावेजों के परिशीलन से यह भी पाया जा रहा है कि अनावेदिका द्वारा दिनांक 06.12.2013 को अपने पति आवेदक लोकेश तथा उसके माता-पिता, भाई मुकेश एवं भाई मुकेश की पत्नी श्रीमती अरूणा के विरूद्ध धारा 498 ए, सहपठित धारा 34 भारतीय दण्ड विधान के तहत एफ. आई.आर. प्रदर्श पी. 13 अपराध क्रमांक 38/13 महिला थाना, जिला रतलाम पर दर्ज करायी गयी थी, माननीय उच्च न्यायालय द्वारा प्रदर्श पी. 32 एम.सी.आर.सी. क्रमांक 6906/2014 आदेश दिनांक 26.09.2016 को उक्त आपराधिक मामले में से मुकेश, श्रीमती अरूणा पुरूषोत्तम एवं पुष्पा के विरूद्ध विरचित आरोप धारा 498 'ए सहपठित धारा 34 भा.द.वि. से डिस्चार्ज कर दिया गया था और केवल आवेदक के विरूद्ध विचारण हुआ था. आवेदक को भी न्यायिक मजिस्ट्रेट प्रथम श्रेणी रतलाम द्वारा आपराधिक प्रकरण क. 214/14 प्रदर्श पी. 31 के द्वारा दिनांक 10.08.2019 को दोषमुक्त कर दिया गया है और दोषमुक्ति के विरूद्ध की गई अपील भी सत्र न्यायालय द्वारा निरस्त कर दी गई है,इस प्रकार अनावेदिका का यह कृत्य भी आवेदक के प्रति क्रूरता की श्रेणी में आता है।

33- आवेदक द्वारा यह आधार भी लिया गया है कि अनावेदिका मानसिक विकार से पीड़ित है, लेकिन इस संबंध में आवेदक की ओर से ऐसी कोई समाधानप्रद साक्ष्य प्रस्तुत नही की गई है कि अनावेदिका के संबंध में यह प्रमाणित पाया जा सके कि वह मानसिक विकार से पीडित है। इस प्रकार वाद प्रश्न कमांक 1 'प्रमाणित एवं वाद प्रश्न क. 2 "प्रमाणित नहीं' के रूप में निर्णित किया जाता है।

वाद प्रश्न कमांक 03 एवं 04:-

34-वाद प्रश्न क्रमांक 01 एवं 02 पर दिये गये निष्कर्ष से यह प्रमाणित पाया जा रहा है कि अनावेदिका ने विगत चार वर्षों से अधिक अवधि से युक्तियुक्त कारण के बिना आवेदक का परित्याग कर रखा है, और आवेदक के प्रति क्रूरता कारित की गई है, लेकिन अभिलेख पर जिस प्रकृति की साक्ष्य है कि उभयपक्ष की दोनों पुत्र संतान अनावेदिका के साथ निवास कर रही हैं. अनावेदिका के प्रतिपुरीक्षण के दौरान जब आवेदक की ओर से यह सुझाव दिया गया कि अनावेदिका ने आवेदक के विरूद्ध आवेदक और उसकी भाभी के मध्य गलत संबंधों का असत्य आरोप लगाया है तो अनावेदिका द्वारा अपने प्रतिपरीक्षण के पैरा 17में जवाब दिया गया था कि उसने सही आरोप लगाया है और यह पूछे जाने पर कि इसका कोई प्रमाण प्रस्तुत नहीं किया है, तब अनावेदिका ने यह जवाब दिया था कि वह स्वयं प्रमाण है। ऐसे आरोपों का कोई पृथक से प्रमाण हो भी नहीं सकता है, और इसी कारण उभयपक्ष के मध्य विवाद उत्पन्न होकर दोनों के मध्य कटुतापूर्ण संबंध स्थापित हुये है और वर्तमान परिस्थितियों में उनके मध्य सामंजस्य होने की संभावना नहीं है तथा आपस में साथ रहने से किसी भी पक्ष के जीवन, स्वास्थ्य एवं क्षेम को क्षति कारित हो सकती है, दोनों ही पक्ष एक-दूसरे पर आरोप लगाते हुए साथ-साथ रहने के लिए सहमत नहीं है, उक्त परिस्थितियों में अभिलेख पर उपलब्ध साक्ष्य के विश्लेषण एवं विवेचना उपरांत यह घोषणा की जाती है कि "

29. The aforesaid judicial pronouncement confirms that non-applicant No. 1 not only lived separately without justifiable ground

but also leveled false and deeply scandalous allegations of an illicit relationship between the revisionist and his sister-in-law.

30. Such character assassination is recognized as the most severe form of mental cruelty. As held by the Hon'ble Apex Court in the case of **Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate, (2003) 6 SCC 334:**

> *"7. The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that levelling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extra-marital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court [Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate, (2001) 2 DMC 64 (Bom)] . We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the*

> *wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible."*

31. Furthermore, the precise applicability of Section 125(4) of the Cr.P.C. and the concept of 'refusal to live with the husband without sufficient reason' was recently elucidated by the Supreme Court in **Rina Kumari v. Dinesh Kumar Mahto, (2025) 3 SCC 33 : 2025 SCC OnLine SC 72,** wherein it observed:

> ***"15.*** *Such disqualification, by way of an exception, was envisaged under Section 488(4) of the old Code, which is replicated, almost verbatim, in Section 125(4)CrPC. It reads thus:*
>
> *"**125. (4)** No wife shall be entitled to receive an [Subs. for "allowance" by Act 50 of 2001, Section 2(iii) (w.e.f. 24-9-2001).] [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent."*
>
> ***41.*** *The reason for this is not far to gather. In Rohtash Singh v. Ramendri [Rohtash Singh v. Ramendri, (2000) 3 SCC 180 : 2000 SCC (Cri) 597] , this Court clarified that a wife, who suffered a decree of divorce on the ground of deserting her husband, would not be entitled to maintenance under Section 125CrPC as long as the marriage subsisted, but she would be entitled to such maintenance once she attained the status of a divorced wife, in the light of the definition of a "wife" in Explanation (b) to Section 125(1)CrPC. Dinesh, therefore, sought to protect himself from a claim by*

> *Reena for maintenance by projecting the disobeyed restitution decree as a defence and as long as she did not attain the status of a divorced wife, that protection would endure to his benefit. This stalemate of sorts created by Dinesh clearly reflects his lack of bona fides and demonstrates his attempt to disown all responsibility towards his wife, Reena. These factors, taken cumulatively, clearly manifest that Reena had more than sufficient reason to stay away from the society of her husband, Dinesh, and her refusal to live with him, notwithstanding the passing of a decree for restitution of conjugal rights, therefore, cannot be held against her. In consequence, the disqualification under Section 125(4)CrPC was not attracted and the High Court erred grievously in applying the same and holding that Reena was not entitled to the maintenance granted to her by the Family Court."*

32. Applying the settled propositions of law to the factual matrix of the present case, this Court finds that non-applicant No. 1 has completely failed to establish any justifiable reason to reside separately from the revisionist. The reasoning propagated by the learned trial court regarding attention towards other family members is entirely devoid of legal merit.

33. On the contrary, the record affirmatively reflects that non-applicant No. 1 subjected the revisionist to severe mental cruelty, lodged a false criminal prosecution under Section 498-A IPC resulting in acquittal, and leveled baseless, character-assassinating allegations regarding illicit relations.

34. Consequently, the conduct of non-applicant No. 1 falls squarely within the disqualification envisaged under Section 125(4) of the Cr.P.C. She has refused to live with the husband without any sufficient or justifiable reason, and thereby, the impugned order directing payment of maintenance to her suffers from gross illegality and perversity.

35. However, the disqualification of the wife does not legally or morally absolve the revisionist of his primary liability to maintain his minor children. Non-applicant No. 2 and non-applicant No. 3 are innocent parties and cannot be deprived of their legitimate right to sustenance and education. Considering the prevailing economic conditions, the maintenance awarded to them by the lower court warrants an equitable enhancement.

36. In view of the exhaustive analysis and the findings recorded hereinabove, the present Criminal Revision is **partly allowed**. The impugned order dated 08/03/2022 passed by the learned Principal Judge, Family Court, Ratlam in MJCR No. 48/2016 is hereby modified to the following extent.

37. The direction to pay an amount of Rs. 10,000/- per month towards the maintenance of non-applicant No. 1 (Wife) is **set aside**. The application for maintenance preferred by non-applicant No. 1 stands **dismissed**.

38. The maintenance amount provided to non-applicant No. 2 and non-applicant No. 3 (children), which was initially fixed at Rs. 5,000/- each per month, is hereby increased to Rs. 7,500/- each per month. The revisionist is directed to pay a total consolidated amount of Rs. 15,000/- per month towards the maintenance of both children.

39. It is directed that the aforesaid maintenance amount awarded to the children shall be payable from the date of the application filed before the learned Family Court. It is further made clear that any amount already paid by the revisionist to the non-applicants, whether as interim maintenance during the pendency of the proceedings or pursuant to the impugned order, shall be duly adjusted against the total arrears calculated in terms of this modified order.

40. The revisionist is directed to clear the outstanding arrears, after making the aforesaid adjustments, within a period of **three months** from the date of receipt of a certified copy of this order.

41.The present Criminal Revision stands disposed of in the aforesaid terms.

(Jai Kumar Pillai)
Judge

CRR No.1229/2022

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