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CRR-3577-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 14th OF JULY, 2026

CRIMINAL REVISION No. 3577 of 2024

.....
Appearance:

Shri G.G. Shivhare - Advocate for the petitioner.

Shri Hardayesh Kumar Shukla - Advocate for respondent.

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WITH

CRIMINAL REVISION No. 4239 of 2024

.....
Appearance:

Shri G.G. Shivhare - Advocate for petitioners

Shri H.K. Shukla - Advocate for respondent.

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ORDER

Both the revisions, i.e. CRR No.3577/2024 & CRR No.4239/2024, since arising out of a common order dated 19/04/2024 passed by learned Additional Judge to the Court of Principal Judge, Family Court, Gwalior in Case No.694/2021 (MJC), were heard together and are being disposed of by this common order.

2. The CRR No. 3577/2024 has been filed by the husband challenging the interim award passed in favour of his minor daughter, whereas the CRR



No.4239/2024 has been filed by the wife and the minor daughter challenging the order of refusal of interim maintenance to the wife and for enhancement of interim maintenance of Rs.6,000/- per month granted to the minor daughter.

3. For the sake of convenience, the husband shall be referred as the petitioner, whereas the wife and the minor daughter shall be referred as respondents No.1 & 2 respectively.

4. By the impugned order dated 19/04/2024, the learned Court below partly allowed the application for interim maintenance filed by respondent No.1 and 2 under Section 125 of Cr.P.C, awarded a sum of Rs. 6,000/- per month in favour of respondent No.2/minor daughter; however, the claim of respondent No.1/wife for interim maintenance has been rejected.

5. Brief facts of the case are that the marriage between the petitioner and respondent No.1 was solemnized on 27/06/2010 as per Hindu rites and customs at Gwalior. Out of the said wedlock, a daughter/respondent No.2 was born on 05/11/2012. The respondent No.1 filed an application under Section 125 Cr.P.C. alleging that within a few years of marriage, she was subjected to harassment on account of demand of dowry. She was ultimately compelled to leave her matrimonial home on 29/10/2019 and is living separately since then.

6. The learned Family Court by the impugned order dated 19/04/2024 observed that respondent No.1/wife is working as a government employee and drawing a monthly salary of Rs.39,368/- per month; hence, her prayer for interim maintenance was rejected. However, the learned Family Court



has granted interim maintenance of Rs.6,000/- per month to respondent No.2/minor daughter towards her daily necessities during the pendency of the main application. Being aggrieved by the said order, petitioner/husband as well as respondent No.1/wife and respondent No.2/minor daughter have filed these two separate criminal revisions.

7. The learned counsel for the petitioner submits that the amount of Rs.6,000/- per month awarded to respondent No.2/minor daughter is grossly excessive and contrary to facts on record. It is further submitted that the petitioner is a retired Army personnel and relies solely on his pension for his livelihood. He has the responsibility of maintaining his aged parents and he has also purchased a property in the name of respondent No.1 and has to pay the loan for the same. He further submits that he has to bear all the expenses out of his pension only and as respondent No.1/wife is a government employee with a substantial salary, she is fully capable of bearing the minor child's expenses independently; therefore, the direction issued to the petitioner/husband to pay maintenance to respondent No.2/minor daughter is totally unwarranted.

8. The learned counsel for the respondent No.1 & 2 submits that the amount of Rs.6,000/- per month awarded to respondent No.2/minor daughter is grossly insufficient to meet her basic requirements including educational fees, clothing, and transportation. It is further submitted that the Family Court has erroneously denied maintenance to respondent No.1/wife merely because she is employed as a Compounder in Ayurvedic Department. It is also contended that mere employment of the wife does not dis-entitle her to



claim maintenance from her husband. The Family Court has failed to appreciate the settled legal position of law.

9. Heard the learned counsel for the parties.

10. It is well settled in law that interim maintenance is a temporary measure granted pending final adjudication of the main application filed under Section 125 Cr.P.C./Section 144 of BNSS. The purpose of interim maintenance is to ensure that the applicant is not left without means of sustenance during the pendency of the proceedings.

11. For passing the order of interim maintenance, the Court is required to form only a *prima facie* opinion based on limited material available at that stage. Consequently, this Court, while exercising revisional jurisdiction, is not required to re-appreciate the evidence or the material placed by the parties as if it were sitting in appeal. Any interference with an order of interim maintenance is called for only where the order is shown to be perverse, arbitrary or passed in violation of settled principles of law. Any Interference by this Court, at this stage, in setting aside or modifying the interim maintenance would effectively amount to a pre-determination of the issues that are required to be adjudicated by the Court below in the final proceedings.

12. In the present case, this Court finds that the learned Family Court has acted in the appropriate manner considering the facts and the material available on record. Learned Family Court has taken into account the income of respondent No.1/wife who is working as Compounder in the Ayurvedic Department and draws a net monthly salary of Rs.39,368/- per month, out of



which she herself has disclosed a monthly expenditure of about Rs.13,000-14,000/- per month, including an Insurance Premium and a Sukanya Samriddhi Deposit of Rs.5,000/- per month for the minor daughter. The petitioner, in his affidavit, has stated that he is retired from the Army, survives only on pension, and bears the expenditure of about Rs.16,000/- per month towards the maintenance of his aged parents. The Court below has taken into account the income of respondent No.1/wife and for that very reasons has rejected the application and declined to grant any interim maintenance in her favour. The only relief granted is a sum of Rs. 6,000/- per month for maintenance of minor daughter who is a school going child and has reasonable requirements towards education, food, clothing and other daily needs which cannot be disputed.

13. Furthermore, the petitioner is a father and he has obligation to maintain his minor child irrespective of the fact that the mother is employed anywhere else. The responsibility of father does not distinguish automatically because the mother with whom the child resides is also earning some income. However, the income of the mother is a relevant factor which needs proper consideration during quantification of the amount of maintenance. The learned Court below has precisely done the same and such an assessment which is made very carefully on the prima facie basis cannot be said to be excessive, arbitrary or perverse. On this material, the Court below has taken the view that respondent No.1/wife being gainfully employed and earning sufficiently to maintain herself, is not entitled to interim maintenance at this stage, while, respondent No.2/minor daughter



being a dependent deserves interim maintenance of Rs.6,000/- per month, payable from the date of application. This *prima facie* assessment, based on the income and liabilities disclosed by both sides, cannot be said to be perverse, arbitrary or contrary to any settled principle of law.

14. So far as the contention that mere employment of the wife does not dis-entitle her from maintenance is concerned, this Court finds that the Court below has nowhere held that employment, by itself, dis-entitles the wife. Rather, going through the observations made by the trial court, it is evident that the Court below has weighed her actual income as well as expenditure and at the same time has considered the petitioner/husband's pension and his liability towards his dependent parents. Therefore, based on said material on record and facts, the Court has formed a *prima facie* opinion on the comparative financial capacity of the parties. Whether this assessment requires correction, and whether the respondent's income and the wife's actual requirements are proportionate or not as claimed by either side need not be decided at the present stage; rather, said matters require detailed appreciation of evidence, which falls within the domain of the Trial Court at the stage of final adjudication.

15. The grievance raised by the petitioner regarding the property purchased in the name of respondent No.1 and that he pays the loan amount of it regularly and that he has an obligation to maintain his old aged parents and that the conduct of the respondent No.1 as a wife, are all matters which require a detailed appreciation of evidence. These are questions of fact that purely fall within the domain of the Court below that need not be decided at



this interim stage and are to be examined at the time of final adjudication of the main application. It would neither be appropriate nor permissible for this Court to decide these contested factual issues at the interim stage in the present revision.

16. The Court below, while conducting the final proceedings, will have ample opportunity to examine all these aspects in detail, summon relevant documents, cross-examine witnesses, and determine the actual income, financial capacity, and conduct of both parties. The Court below will be well within its jurisdiction to take appropriate cognizance of the same in the final order.

17. Thus, this Court does not find any illegality, perversity or infirmity in the impugned order dated 19/04/2024 passed by the learned Additional Judge to the Court of Principal Judge, Family Court, Gwalior in Case No.694/2021 (MJC), warranting interference under the revisional jurisdiction of this Court.

18. Accordingly, as this Court does not find any merit in the present revisions; therefore, both the revisions are hereby **dismissed**. However, the parties are at liberty to raise all their grievances before the learned Court below at the time of final hearing of the main application.

19. It is made clear that observations made in this order are confined to disposal of the present revisions only and shall not prejudice the rights and contentions of either party in final adjudication of the main application pending before the Court below.

20. As the matter is pending since 2019, therefore, this Court deems it



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fit to direct the learned Court below to decide the matter finally within six months.

(PUSHPENDRA YADAV)
JUDGE

(Dubey)