

HIGH COURT OF MADHYA PRADESH, JABALPUR

SINGLE BENCH : **HON'BLE SHRI JUSTICE MOHD. FAHIM ANWAR**

Criminal Revision No.462 of 2018

Smt.Neerja Singh

Vs.

Prashant Singh

Shri P.K.S.Sengar, counsel for petitioner.

Shri Amit Khatri, counsel for respondent.

Criminal Revision No.769 of 2018

Prashant Singh

Vs.

Smt.Neerja Singh

Shri Amit Khatri, counsel for petitioner.

Shri P.K.S.Sengar, counsel for respondent.

Whether approved for reporting : **Yes/No**

ORDER
(31.10.2019)

As both the revisions arise out of same impugned order, they are being decided by this common order.

2. These revisions are filed by the parties, who are husband and wife against the impugned order dated 6.1.2018 passed in MJC No.239/2015 under section 125 of Cr.P.C., by which the Court below (Family Court, Katni) has awarded maintenance @ Rs.4,000/- per month to wife

Neerja Singh, which is to be paid by husband Prashant Singh.

3. It is not in dispute that both the parties are husband and wife and their marriage was solemnized in the year 2011 and since 2013 wife Neerja Singh is residing in her parental house at Katni separately from her husband Prashant Singh. It is also not in dispute that on the complaint of wife Neerja Singh some criminal proceedings were registered against husband Prashant Singh under the provisions of Protection of Women from Domestic Violence Act, 2015 (hereinafter referred to as 'DV Act' for short), before the Court of Judicial Magistrate First Class, Katni. After considering the case which was filed by the wife Neerja Singh under the DV Act against the husband Prashant Singh in MJC No.186/2013 vide order dated 4.12.2017 the Judicial Magistrate First Class, Katni has awarded monetary relief of Rs.6,000/- per month to be paid to the wife by the husband.

4. These revisions appear to have been filed only in regard to quantum of maintenance granted, because on going through the pleadings of both the parties, it does not appear that any of the party has raised any objection in regard to the fact that wife Neerja Singh is residing separately from her husband Prashant Singh without any genuine cause, so in my considered opinion for deciding both the revisions this Court has to consider the aspect of quantum of maintenance, which is awarded by the Family Court in favour of wife Smt.Neerja Singh.

5. The wife, Neerja Singh has submitted that the husband Prashant Singh is working as Junior Engineer in Electricity

Department and getting Rs.40,000/- to Rs.42,000/- salary and he has also having 40 acres of land from which he is earning Rs.5 to Rs.6 lakhs per year. The husband is also having one house and some plots at Tikamgarh. She has prayed for granting Rs.25,000/- as monthly maintenance.

6. On the other side learned counsel for husband has denied all the allegations made in the application and has submitted that he is not having the income as shown by wife. He has also submitted that the wife is quite literate. She has done her B.Ed., and PGDCA courses and she is competent to earn her livelihood. She is already getting Rs.6,000/- per month under the head of monetary relief under the provision of DV Act, which is awarded to her in MJC No.186/2013. The husband Prashant Singh is not in a position to pay any further amount under the similar head to the wife Smt.Neerja Singh. He has submitted to reject the application with costs.

7. For deciding the revision filed by both the parties, it is to be seen that whether the maintenance amount which is allowed by the Court below by the impugned order @ Rs.4,000/- per month in addition to the amount allowed to the wife in other proceedings is not sufficient to meet out the livelihood expenses of wife Smt.Neerja Singh ?

8. Wife Neerja Singh has stated in her statement before the Court that the husband Prashant Singh is working as Junior Engineer in the Madhya Pradesh Electricity Board, and getting Rs.45,000/- salary per month. Apart from this, he is also having 40 acres of agricultural land at village Chiboura, District Satna and a house at Tikamgarh, by which he is

earning about Rs.50,000/- and Rs.20,000/- per month respectively. Smt.Neerja Singh has submitted some documents, out of which salary certificate Ex.P-4 of husband is relevant, in which total salary of husband is shown to be Rs.26,635/- including Basic pay, Dearness Allowances and other allowances, for the month of August 2013 and has not submitted any documentary evidence regarding the agricultural land, plot or any house situated at any place as alleged in the application filed by wife Smt.Neerja Singh.

9. On the other hand, the husband Prashant Singh has not filed any document regarding his income during the course of his statement. He has submitted that wife Neerja Singh has already filed a complaint under the provisions of the DV Act, in which she is already getting monetary relief of Rs.6,000/- per month. It is pertinent to mention here that wife Smt.Neerja Singh has not denied the fact that she is getting that money under the DV Act, during the course of argument.

10. So the monthly income of husband Prashant Singh which is proved by the document produced in evidence is found to be 26,635/- out of salary. Admittedly, the husband Prashant Singh has been directed to pay Rs.6,000/- per month under the head of monetary relief to his wife Neerja Singh. So in my considered opinion, looking to the proved income of husband Prashant Singh, additional amount of Rs.4,000/- awarded as maintenance, under section 125 of Cr.P.C. by the Court below by impugned order appears to be appropriate, because the monetary relief Rs.6,000/- per month, which is already awarded to the wife Smt.Neerja

Singh under the DV Act is also treated to be paid under the similar head.

11. In this regard the Delhi High Court in the case of **Shome Nikhil Danani Vs. Tanya Banon Danani** (Crl. Rev. Pet.994/2018) has held that the proceedings under the DV Act and under section 125 of Cr.P.C., are independent of each other and have different scope, though there is an overlap. So far as the overlap is concerned, the law has catered for that eventuality and laid down that at the time of consideration of an application for grant of maintenance under DV Act, maintenance fixed under section 125 Cr.P.C., shall be taken into account. The Apex Court in the case of **Juveria Abdul Majid Khan Patni Vs. Atif Iqbal Masoori** [(2014) 10 SCC 736] has held that monetary relief under section 20 of DV Act is in addition to maintenance under section 125 Cr.P.C.

12. In the light of different judgments of Coordinate Bench of this High Court, High Court of Judicature of Bombay **Prakash Babulal Dangi Vs. State of Maharashtra** (Criminal Writ Petition No.3791 of 2016), High Court of Delhi at New Delhi **Shome Nikhil Danani** (*supra*) and also Hon'ble Apex Court in **Juveria Abdul Majid Khan Patni** (*supra*), the settled position of law appears to be that monetary relief as stipulated under DV Act is different from maintenance, which can be in addition to an order of maintenance under section 125 Cr.P.C., or any other law, but it is also held that although there is an overlap, which means that while deciding maintenance under any of the Act, the maintenance or compensation already directed to be paid

under one of the Act is considerable, while deciding the liability under the other Act.

13. In the circumstances of the case and matrix fixed by the Hon'ble Courts, in my opinion, in the maintenance application under section 125 Cr.P.C., the wife Smt.Neerja Singh will be entitled to get Rs.4,000/- per month from the husband Prashant Singh, until she is getting Rs.6,000/- per month as monetary relief from her husband under the DV Act. Therefore, looking to the income of husband Prashant Singh, in my considered opinion the maintenance and monetary relief which are awarded to the wife Smt.Neerja Singh appears to be just and proper. However, it is observed that in any circumstances, the order regarding monetary relief under the DV Act is changed or cancelled, then Smt.Neerja Singh will be free to file an application under section 127 of Cr.P.C., for enhancement of maintenance amount.

14. In view of aforesaid discussion, there is no merit in these revisions. Consequently, these revisions are dismissed.

(Mohd. Fahim Anwar)
Judge

M.

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SANTOSH P MATHEWS
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