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**(2019) 10 MP CK 0145**

**In the Madhya Pradesh High Court**

**Case No : Criminal Revision No. 4096 Of 2018**

Anjani Nandan Gupta

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

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**Date of Decision : 31-10-2019**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 125, 397, 401

**Citation : (2019) 10 MP CK 0145**

**Hon'ble Judges : Anand Pathak, J**

**Bench : Single Bench**

**Final Decision : Disposed Of**

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## **Judgement**

The instant criminal revision under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 arising out of the order dated 10-05-2018 passed by the Additional Principal Judge, Family Court, Gwalior whereby the Court has granted interim maintenance to the respondents whereby respondent No.1 (wife of petitioner) and respondent No.2 (son of petitioner) were granted Rs.3,000/- and Rs.1500/- per month respectively as interim maintenance.

As per pleadings referred in the revision memo, it appear that an application under Section 125 of Cr.P.C. has been filed by the respondents (wife/son) against the petitioner for maintenance. Besides that, an application for interim maintenance has also been filed in which the respondents sought interim maintenance on the ground that petitioner is Government servant and earning Rs.30,000/-but not maintaining his family whom he has deserted. Therefore, maintenance to the tune of Rs.14,000/- was sought.

Petitioner/husband filed reply and contested the case on the ground that respondent No.1 has deliberately avoided to live with the petitioner and earning sufficient to sustain herself and her child. Petitioner is working in a School as clerk and earning only Rs.10,044/- per month which is too meagre for himself, therefore, he cannot be fastened with the liability. Respondent No.1 is earning

Rs.60,000/- per month from her business of Beauty Parlour.

Learned Court below after considering the income of the petitioner and taking note of the fact that under the 7th Pay Commission recommendation, salary of petitioner in all probability might have been raised to Rs.20,000/- per month, therefore, fixed the interim maintenance of Rs.3,000/- for respondent No.1 and Rs.1500/-for respondent No.2 and directed to grant Rs.5,000/- as litigation expenses.

Considering the pleadings of the case and perusal of order indicates that trial Court has granted interim maintenance to the respondents who happens to be the wife and son of petitioner. Admittedly, petitioner is in Government job and is working in School Education Department. Therefore, so far as income part is concerned it is an admitted position that he has regular source of income. So far as alleged income of respondent No.1 through business of Beauty Parlour is concerned, it is yet to be ascertained because this is a case where interim maintenance has been granted and not final maintenance. Trial Court/ Family Court shall definitely go into the respective income of the parties before deciding exact amount of maintenance. So far as litigation expenses is concerned that can be slashed at this juncture to the tune of Rs.2500/-.

In the cumulative analysis, no case for interference is made out so far as maintenance of respondents are concerned. So far as litigation expenses is concerned, the amount is slashed from Rs.5000/- to Rs.2500/-. If amount is already paid/deposited by the petitioner then same shall be adjusted in future by the order of the Family Court.

With the aforesaid modification, petition stands disposed of.