



2026:CGHC:12427-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA(MAT) No. 3 of 2024**

1 - Tarachand Sahu S/o Shri Kaushal Prasad, Aged About 32 Years R/o Village Bhothiya, P.S. And Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh.

--- Appellant(s)**versus**

1 - Smt. Akansha Sahu W/o Tarachand Sahu D/o Shri Itwari Ram Sahu, Aged About 31 Years Community Health Center Sakti, P.S. And Tah. Sakti, District Janjgir Champa Chhattisgarh

--- Respondent(s)**FA(MAT) No. 48 of 2024**

1 - Smt. Akanksha Sahu W/o Tarachand Sahu (D/o Itwari Ram Sahu) , Aged About 29 Years R/o Community Health Center, Sakti Police Station And Tahsil Sakti, District Janjgir Chmpa (Now District Sakti) Chhattisgarh.

---Appellant(s)**Versus**

1 - Tarachand Sahu S/o Kaushal Prasad Sahu, Caste Sahu, Aged About 30 Years R/o Village Bhothiya, Police Station And Police Station And Tahsil Jaijaipur District Janjgir Chmpa (Now District Sakti) Chhattisgarh.

--- **Respondent(s)**

For Appellant/Husband : Mr. Ravindra Sharma, Advocate

For Respondent/Wife : Mr. K.K. Pandey and Mr. Rakesh
Kumar Manikpuri, Advocates

DB- Hon'ble Shri Justice Sanjay K. Agrawal
Hon'ble Shri Justice Sachin Singh Rajput
Judgment On Board

16.03.2026

1. Since common question of law and facts is involved in both of these appeals and since both of them have been filed being aggrieved by a common order, therefore, they have been clubbed together, heard together and are being decided by this common judgment.
2. The appellant/husband as well as the respondent/wife, both have questioned the impugned judgment and decree dated 15/12/2023 passed by learned Principal Judge, Link Court Family Court Sakti, District Janjgir-Champa in Civil Suit No. 04-A/2021 whereby application for divorce filed by the appellant/husband under Section 13 of the Hindu

Marriage Act, 1955 (hereinafter, “the Act of 1955”) has been granted and the Family Court has awarded permanent alimony of Rs. 8,00,000/- in favour of the respondent/wife along with monthly maintenance of Rs. 6,000/- till her remarriage.

3. At the outset, Mr. Ravindra Sharma as well as Mr. K.K. Pandey, learned counsel for the parties would submit that so far as decree for divorce is concerned, both the parties have accepted and agreed to it and they have only questioned the impugned judgment and decree to the extent of grant of permanent alimony and monthly maintenance in favour of the respondent/wife.
4. Mr. Ravindra Sharma, learned counsel for the appellant/husband, would submit that once permanent alimony of Rs. 8,00,000/- had been awarded in favour of the respondent/wife, the Family Court then could not have granted monthly maintenance of Rs. 6,000/- in her favour till her remarriage, as such, the impugned judgment and decree to the extent of grant of monthly maintenance in favour of the respondent/wife is liable to be set aside.
5. Per contra, Mr. K.K. Pandey, learned counsel for the respondent/wife, would submit that though the Family Court has rightly granted permanent alimony as well as

monthly maintenance in favour of the respondent/wife, however, the sum of Rs. 8,00,000/- as permanent alimony as well as the sum of Rs. 6,000/- per month as maintenance is rather on the lower side and both deserve to be enhanced.

6. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.
7. The question that arises for consideration herein is, “whether the Family Court is justified in granting monthly maintenance after having already granted permanent alimony of Rs. 8,00,000/- in favour of the respondent/wife ?”
8. At this stage, it would be appropriate to notice the provision contained under Section 25(1) of the Act of 1955, which states as under :-

“25. Permanent alimony and maintenance. –

(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent’s own income and other property, if any, the income and other property of the applicant, the conduct of the parties and other circumstances of the case, it may seem to

the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.”

9. The aforesaid provision empowers the court to award for the maintenance and support of the applicant a gross sum or to direct monthly or other periodical payments to be made by the respondent to the applicant. The matter is of the discretion of the court and ordinarily, the court as well as the parties prefer that the payments should be periodical or a gross sum is generally awarded after making an inquiry on such application filed under Section 25 of the Act of 1955, but periodical as well as gross sum, both cannot be awarded at a time.
10. The Supreme Court, in the matter of **Rakesh Malhotra v. Krishna Malhotra**¹, has considered the question as to “whether after grant of permanent alimony under Section 25 of the Act of 1955, a prayer can be made before the Magistrate under Section 125 of the CrPC for maintenance, over and above what has been granted by the Court while exercising power under Section 25 of the Act of 1955” and answered the said question in paragraph 7 of the report, which provides as under :-

“7. At the stage of passing a decree for dissolution of marriage, the court thus considers not only the earning capacity of the respective parties, the status of the parties as well as various other issues. The determination so made

1 (2020) 14 SCC 150

by the court has an element of permanency involved in the matter. However, Parliament has designedly kept a window open in the form of sub-sections (2) and (3) in that, in case there be any change in circumstances, the aggrieved party can approach the court under sub-section (2) and (3) and ask for variation/modification. Since the basic order was passed by the court concerned under Section 25(1), by very nature, the order of modification/variation can also be passed by the court concerned exercising power under Section 25(2) or 25(3) of the Act.”

11. Reverting to the facts of the present case in light of the aforesaid legal analysis, it is quite vivid that once the Family Court had granted permanent alimony in favour of the respondent/wife in exercise of power conferred under Section 25(1) of the Act of 1955, it could not have further granted monthly maintenance/periodical payment in her favour. As has been held by their Lordships of the Supreme Court in **Rakesh Malhotra** (supra), the Parliament has empowered the Court under Section 25(2) of the Act of 1955 and kept a remedy intact and made available to the party concerned seeking modification, the logical sequitur would be that the remedy so prescribed ought to be exercised rather than creating multiple channels of remedy seeking maintenance and once question of permanent alimony was considered under Section 25 of the Act of 1955 and it was granted by the Family Court, monthly maintenance was not grantable in view of provision contained under Section 25 of the Act of 1955. In that

view of the matter, we are of the considered opinion that the Family Court is absolutely unjustified in granting monthly maintenance of Rs. 6000/- in favour of the respondent/wife after having already granted permanent alimony of Rs. 8,00,000/-. As such, the part of the impugned judgment and decree awarding maintenance of Rs. 6,000/- per month in favour of the respondent/wife is hereby set aside.

12. At this stage, the argument made by learned counsel for the respondent/wife that the sum of Rs. 8,00,000/- awarded by the Family Court as permanent alimony is on the lower side deserves to be noticed. A bare perusal of the record would show that application for permanent alimony was not filed by the respondent/wife and no inquiry was made by the Family Court before passing the award of permanent alimony. In that view of the matter, liberty is reserved in favour of the respondent/wife to file application for enhancement of the amount of Rs. 8,00,000/- granted by the Family Court as permanent alimony and if such an application is filed by the respondent/wife, the Family Court will consider all the facts and circumstances of the case and make an inquiry in light of the decision rendered by the Supreme Court in the matter of **Rajnish v. Neha**² and decide the said application within four months in

accordance with law. It is made clear that so far as the enhancement of amount of permanent alimony is concerned, it will be considered by the Family Court without being prejudiced by any observation made by this Court herein-above.

13. At this stage, learned counsel for the appellant/husband submits that sum of Rs. 8,00,000/- has already been deposited by the appellant/husband and as such, respondent/wife is at liberty to withdraw the said amount.
14. Accordingly, both the appeals are disposed of in view of the aforesaid observations/directions.

SD/-

(Sanjay K. Agrawal)
JUDGE

SD/-

(Sachin Singh Rajput)
JUDGE

Harneet