

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 821 of 2014**

1. Smt.Kunti Kamlesh W/o. Shri C.R. Kamlesh, Age around 45 Years R/o. Quarter No.E-217 K.2 Bihar Colony, Jelgaon, Tehsil Katghora, District Korba (C.G.)
2. Lokesh Kumar S/o Shri C.R. Kamlesh, Age around 20 Years R/o as mentioned above.
3. Rajesh Kumar S/o Shri C.R. Kamlesh Aged around 11 Years R/o as mentioned above Through Mother-Smt.Kunti Kamlesh (Applicant No.1)

---- Petitioners**Versus**

C.R. Kamlesh, aged about 58 years, S/o Late Shri Niki Ram Kamlesh R/o. Rumgudu, Shanti Nagar Thana-Balko District Korba (C.G.)

---- Respondent**And****Criminal Revision No. 22 Of 2015**

C.R.Kamlesh S/o Niki Ram, Aged About 60 Years R/o Quarter No. 217, K. Two, Vihar Colony, Jalgaon, Tehsil Katghora, Distt. Korba C.G.

---- Petitioner**Vs**

1. Smt.Kunti Kamlesh W/o C.R. Kamlesh Aged About 50 Years R/o Quarter No. 217, K, Two Vihar Colony, Jelgaon, Tehsil Katghora, Distt. Korba, (C.G.)
2. Pragya Kamlesh D/o C.R. Kamlesh Aged About 27 Years R/o Qt. No. 217, K. Two. Vihar Colony, Jelgaon, Tehsil Katghora, Distt. Korba (C.G.)
3. Lokesh Kumar S/o C.R. Kamlesh R/o Qt. No. 217, K. Two. Vihar Colony, Jelgaon, Tehsil Katghora, Distt. Korba (C.G.)
4. Rakesh Kumar S/o C.R. Kamlesh Aged About 20 Years R/o Qt. No. 217, K. Two. Vihar Colony, Jelgaon, Tehsil Katghora, Distt. Korba (C.G.)

---- Respondents

For Petitioners	:	Ms Ruchi Nagar, Advocate in Cr.R.No.821/2014
For Respondent	:	Mr. Matin Siddique, Advocate in Cr.R.No.821/2014

&

For Petitioner	:	Mr. Matin Siddique, Advocate in Cr.R.No.22/2015
For Respondents	:	Ms Ruchi Nagar, Advocate in Cr.R.No.22/2015

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****03/09/2015**

1. Since the aforesaid two criminal revisions have been filed against the same order, they are being disposed of by this common order.
2. In an application for maintenance filed on behalf of wife Smt.Kunti Kamlesh, her daughter Ku.Pragya Kamlesh and sons Lokesh Kumar & Rajesh Kumar, the Family Court, Katghora by order dated 13.2.2009 with the consent of the parties granted maintenance amount of Rs.1500/- per month to wife- Smt.Kunti Kamlesh and Rs.1000/- per month each to daughter Ku.Pragya Kamlesh and sons Lokesh Kumar & Rajesh Kumar from the order dated 13.2.2009. Wife Smt.Kunti, daughter Pragya and sons Lokesh Kumar & Rajesh Kumar have filed an application under Section 127 of the CrPC claiming change in circumstances merely on the ground of enhancement of cost of living and hike in price in day-to-day need. The aforesaid application has been ultimately allowed by the order impugned dated 10.10.2014 by the Family Court, Katghora in MJC No.81/2009, by which the Family Court has enhanced the maintenance amount of wife from Rs.1500/- to Rs.4000/- per month and from Rs.1000/- to Rs.3000/- per month each to sons Lokesh Kumar & Rajesh Kumar.
3. Against the order enhancing maintenance, wife Smt.Kunti and two sons Lokesh Kumar & Rajesh Kumar have filed Criminal Revision No.821 of 2014 claiming that enhancing amount is not just and fair and deserves to be enhanced further suitably, whereas husband C.R.Kamlesh has filed Criminal Revision No.22 of 2015 claiming the amount enhanced is on higher side and same deserves to be reduced suitably.

4. Ms Ruchi Nagar, learned counsel appearing for wife Smt.Kunti and two children would submit that wife is not working woman, whereas son Lokesh Kumar is suffering from Epilepsy and son Rakesh Kumar is minor studying in the school and as such, amount of maintenance i.e. total Rs.10,000/- is shockingly low looking to the cost of living, standard of living, cost of price index including schooling of two sons, therefore, same be enhanced suitably as husband is working as Supervisor in CSEB and getting total Rs.73,419/- and take home salary Rs.59,131/- per month and he is also having 3.6 acres of the land.

5. Per contra, Mr.Matin Siddique, learned counsel appearing for husband C.R.Kamlesh would submit that on the basis of consent between the parties, maintenance amount of Rs.4500/- per month was agreed. There was no ground to enhance the amount of maintenance due to retire next two years and government accommodation allotted to him as Supervisor is still occupied by wife and his two sons and he is residing in tenanted accommodation and therefore, amount enhanced deserves to be reduced suitably and amount of maintenance of Rs.4500/- per month is reasonable and fair, therefore, his revision deserves to be allowed and revision filed by wife and two children deserves to be dismissed.

6. I have heard learned counsel appearing for the parties and gone through the record with utmost circumspection.

7. It is not in dispute that the Family Court by order dated 13.2.2009 granted maintenance of Rs.1500/- per month to wife Smt.Kunti Kamlesh and Rs.1000/- per month each to daughter Ku.Pragya ands sons Lokesh Kumar & Rajesh Kumar and on an application for enhancement claiming change in circumstances the Family Court by the order impugned enhanced the amount

of maintenance to the extent of Rs.4000/- per month to wife and Rs.3000/- per month each to sons Lokesh Kumar & Rajesh Kumar as Pragya has not been awarded because she is married and residing separately with her husband.

8. The question for consideration would be whether the amount of maintenance awarded now by the Family Court to wife and two children is just and fair or it requires modification.

9. It is not in dispute that wife is not a working woman and she is solely dependent upon the maintenance given by her husband. It is also not in dispute that husband is getting Rs.73,419/- per month and take home salary Rs.59,131/- per month, he is due to retire within two years and one of the children i.e. Lokesh Kumar is suffering Epilepsy and studying in the school meant for mentally retarded children and another son Rakesh Kumar is also minor aged about 11 years. Considering their need for school fees, medical need and need for food & clothing, maintenance amount of Rs.3000/- per month each to sons Lokesh Kumar & Rakesh Kumar cannot said to be on higher side and is said to be reasonable amount. Maintenance amount of Rs.4000/- per month granted to wife also appears to be reasonable and fair. Taking note of the fact that wife and two children are staying in the official accommodation allotted to husband and husband is residing separately in tenanted house and likely to be retired now within two years, the amount of Rs.10,000/- per month granted to wife and children is just, fair and no enhancement is warranted in amount of maintenance.

10. Considering the facts and circumstances of the case, further considering that husband is due to retire within two years, wife and two children are residing in government accommodation and income of husband of Rs.59,131/- per month at present while working as Supervisor in CSEB, the

Family Court has granted maintenance amount of Rs.4000/- per month to wife and Rs.3000/- per month each to Lokesh Kumar and Rakesh Kumar i.e. total Rs.10,000/- per month. I do not find any illegality or infirmity in awarding such amount of maintenance to wife and two children.

11. For the foregoing reasons, both the revisions deserve to and are accordingly dismissed. However, both the parties are at liberty to file an application under Section 127 of the CrPC upon change in circumstances at appropriate time.

12. Certified copy as per rules.

Sd/-

**(Sanjay K. Agrawal)
JUDGE**

B/-