

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 291 OF 2012**

Harishankar alias Kunu Mehar, aged 33 yrs S/o Purandar Mehar,
Occupation, Daily Wager R/o Kapileswar Nagar, Barpali Tehsil Barpali
District, Bargarh (Orissa).

---Applicant

Versus

Smt. Preeti Devangan W/o Harishankar alias Kunu Mehar, aged 33 yrs
Occupation Teacher, Present Address Chakradhar Nagar Banglapara Tehsil
& District Raigarh (C.G.)

----Non-applicant

For Applicant	:	Mr. B.N. Nande, Advocate
For Non-applicant	:	Mr. Hemant Kesharwani, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****06/08/2015**

1. With the consent of learned counsel for the parties, the matter is heard finally.

2. In duly constituted application for maintenance filed by non-applicant herein, the Family Court by order dated 16/05/2008 awarded a monthly maintenance of Rs. 800/- from the date of order. Thereafter, non-applicant/wife moved an application under Section 127 of the Cr.P.C. for enhancement of amount under maintenance claiming change in circumstances, the Family Court finding favour with the application; further recording a change of circumstances; looking to the facts of the case and material brought on record, party allowed the application and enhanced the

amount of maintenance from Rs. 800/- to Rs.2,500/- per month from the date of order by its order dated 17/02/2012. Against this, instant criminal revision has been filed under Section 19(4) of the Family Court Act by the applicant questioning the same.

3. Mr. B.N. Nande, learned counsel appearing for the applicant would submit that Family Court has seriously erred in enhancing the maintenance amount by granting application under Section 127 of the Cr.P.C. ignoring relevant document Exhibit D-1 income certificate issued by competent authority certifying income of the applicant to be Rs.18,000/- per year as a labourer and thereby order enhancing maintenance become vulnerable and as such, it is liable to be set-aside.

4. Per contra, Mr. Hemant Kesharwani, learned counsel appearing for the non-applicant/wife would submit that applicant is Wholesale Cloth Merchant, which is apparent from Exhibits P-1 to P-3 handwritten by the present applicant. He would further submit that at the present time, cost of living is high and further considering price index, monthly maintenance of Rs.2,500/- awarded by the Family Court is on the lower side, as such, criminal revision deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the record with utmost circumspection.

6. Relationship of the husband and wife is not in dispute, as such, the order of maintenance dated 16/05/2008 granting maintenance to the extent of Rs. 800/- become final.

7. The question for consideration is whether there is change in circumstances for granting application under Section 127 of the Cr.P.C. or not?

8. The Family Court by its order has clearly recorded a finding that the earlier amount of Rs. 800/- per month was granted to the non-applicant by order dated 16/05/2008 and after passage of time i.e. 4 years, cost of living, price index and need has enhanced, as such, change in circumstances warranting alteration in the amount of maintenance and altered the maintenance amount to be Rs. 2,500/- per month.

9. The fact remains that in the passage of 4 years from the original grant of maintenance, price index, cost of living and needs of life, has gone high, as such, the amount of monthly maintenance enhanced from Rs. 800/- to Rs. 2,500/- is in the considered opinion of this Court is not liable to be interfered with, as such, I do not find any jurisdictional error in the impugned order.

10. Accordingly, criminal revision is dismissed.

Sd/-
(Sanjay K. Agrawal)
JUDGE