

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Revision No. 275 of 2015

Jagdish Prasad S/o Kunjilal Sharma Aged About 57 years
Occupation- Service, Electricity Department, Through- Divisional
Office, Near Sakri River Bridge, C.G. Electricity Board
Kawardha, P.S. & Tehsil- Kawardha, District- Kabirdham,
Chhattisgarh

---- Petitioner

Versus

Meena Bai W/o Jagdish Prasad Sharma Aged About 47 Years
Occupation- Nil, R/o Village Kharra, Post Office- Temri, Police
Station- Pulgaon, Tehsil & District- Durg, Chhattisgarh

---- Respondent

For Petitioner: Shri Pramod Verma, Senior Advocate assisted by
Shri Sumit Verma, Advocate.

For Respondent: Shri Dharmesh Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board03/07/2015

(1) In an application filed by the respondent/wife under Section 127 of the Code of Criminal Procedure, 1973 (henceforth 'Cr.P.C.'), the Family Court, Kabirdham by the impugned order dated 27.03.2015 in exercise of its jurisdiction under Section 127 Cr.P.C. finding change in the circumstances enhanced the allowance for maintenance from Rs.500/- per month to Rs.10,000/- per month, against which, this revision has been filed by the petitioner/husband assailing the said order.

(2) Shri Pramod Verma, learned Senior Advocate appearing for the petitioner/husband, would submit that order of the Family Court enhancing the allowance of maintenance from Rs.500/- per month to

Rs.10,000/- per month i.e. 20 times at-once, is shockingly on higher side, and, therefore, the impugned order deserves to be set aside/ modified and, accordingly, the allowance of maintenance be reduced suitably.

(3) Per contra, Shri Dharmesh Shrivastava, learned counsel appearing for the respondent/wife, would submit that enhancement of the allowance of maintenance from Rs.500/- to Rs.10,000/- by the Family Court finding change in circumstances and looking to growth in the price index; age of the non-applicant; and looking to her medical need and having regard to the fact there is no one to look after her and considering the income of the respondent, it cannot be said that the allowance of maintenance granted by the Family Court is on the higher side and, therefore, revision deserves to be dismissed.

(4) I have heard learned counsel for the parties and perused the record available with utmost circumspection.

(5) It is not in dispute that the petitioner is working in the Chhattisgarh State Electricity Board; it is also not in dispute and duly admitted by the petitioner herein that he was earning Rs.42,396/- as salary from his job in the month of October, 2013; the dispute raised in narrow compass as to the quantum of allowance for maintenance as according to the Senior Counsel for the petitioner, it is on the higher side, whereas, according to counsel for the respondent/wife, it is fair and reasonable.

(6) The question of quantum of maintenance to be granted came to be considered before the Supreme Court in the matter of **Jasbir Kaur Sehgal v. District Judge, Dehradun & Ors.**¹ in which it has been held as under: -

¹ (1997) 7 SCC 7 : AIR 1997 SC 3397

“The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. The amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate.”

(7) Thereafter, following the principle of law laid down in **Jasbir Kaur** (supra), very recently, in the matter of **Shamima Farooqui v. Shahid Khan**², their Lordships of the Supreme Court held as under: -

“18. From the aforesaid enunciation of law it is limpid that the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes the faith in life reduces. Sometimes, she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny.

Therefore, the lawful imposition for grant of maintenance allowance.”

(8) Applying the principles of law laid down by their Lordships of the Supreme Court in aforesaid cases to the facts of the present case, it would appear that the respondent was only getting Rs.500/- per month, which has been enhanced to Rs.10,000/- cannot be considered to be on the higher side, as during this period there is a considerable rise in the price index and particularly looking to the fact that the respondent is a woman and looking to the need for food, clothing, medical need and day to day need, and further considering the income of the petitioner who is working in the Electricity Board getting Rs.42,396/- per month, the enhancement made to the extent of Rs.9,500/- per month cannot be said to be on the higher side requiring interference by this Court. I do not find any illegality in the impugned order.

(9) As a fall out and the consequence of the aforesaid discussion, the criminal revision is held to be devoid of merit and is, therefore, dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-