

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO. 3349 /2009

(Shamimbano w/o Mohammad Rafique and others vs. Mohammed Rafique s/o
Mohammed Jafar)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. H.R. Dhumale Advocate for applicants
Mr. R.A. Haque, Advocate for respondent

CORAM: A.B.CHAUDHARI, J.

DATED : 17th December, 2015.

Heard learned counsel for the rival parties.

This is an application at the instance of wife and two children for enhancement of maintenance, on the ground that the respondent-husband, being a Teacher in Urdu School, which is running on grant -in-aid basis, and that the present gross salary of the respondent-husband is not less than Rs. 42,000/-.

Learned counsel for the applicant fairly submits that he did not approach the Magistrate under Section 127 of the Cr.PC, for modification of the order for enhancement of maintenance. He submits that the applicants had directly invoked the inherent jurisdiction of this Court u/s. 482 of the Cr.PC.

In the wake of remedy available u/s 127 Cr.PC. for enhancing maintenance, I do not think that the

applicants can be allowed to invoke the remedy u/s 482 Cr.P.C. All the more so because the same is a matter of evidence. In that view of the matter, I make the following order:

ORDER

Criminal Application No. 3349/2009 is disposed of reserving liberty in favour of the applicants to take such steps as are available in law for enhancement of maintenance.

All the points raised in the instant Application are kept open.

JUDGE

sahare