

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 257 of 2011**

Sukrati Bai W/o Gayatri Prasad, 52 years, R/o village Balaudi, Tahsil Baloda Bazar, District Raipur, Chhattisgarh, at present R/o Talwa Para Janjgir District Janjgir Champa, (Chhattisgarh)

---- **Petitioner****Versus**

Gayatri Prasad S/o Bhagwat Prasad, 56 years, Assistant District Excise Officer, R/o village Balaudi, Tahsil Baloda Bazar, District Raipur Chhattisgarh. at present District Excise Office, Durg, District Durg.

(The Respondent has been retired from services and is residing at village Balaudi).

---- **Respondent**

For Petitioner	: Shri Keshav Dewangan, Advocate.
For Respondent	: None.

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board**04/08/2016**

1. This revision petition by the divorced wife is filed against the order dated 18.02.2011 passed by the Family Court, Janjgir, District Janjgir-Champa in M.J.C. No. 28 of 2009 whereby the application filed by the Petitioner-wife for enhancement of the maintenance payable under Section 127 CrPC has been rejected.
2. The undisputed facts in this case are that the parties were married in the year 1973. One child was born out of this wedlock. Unfortunately, the relationship between the two did not remain cordial and the marriage between the parties was dissolved vide divorce decree dated 13.01.1999. The Petitioner-wife had filed a

petition for grant of maintenance under Section 125 CrPC and on 03.06.1996, she was awarded maintenance to the tune of Rs. 500/- per month. In the year 2009, she filed an application for enhancement of the maintenance praying that from 1996 to 2009 there had been heavy price inflation and increase in the consumer price index and therefore, she may be awarded higher maintenance. It has also come on record that the Respondent-Husband was working as working as Assistant District Excise Officer and has now been retired from service. The emoluments of the Assistant District Excise Officer must not be less than 30,000 to 40,000/- per month.

3. The learned Court below has rejected the claim for enhancement of the maintenance only on the ground that since the wife is an able bodied person and there is nothing on record to show that she cannot even earn Rs. 3000/- per month. To say at least, the approach of the learned Court below was totally insensitive and against the provisions of law. Here, in the present case, the husband is getting a respectable amount as pension and the maintenance awarded to the wife is only Rs. 500/- per month. Under no stretch of imagination this can be said to be a just maintenance. The Court below has not held that she is not entitled to maintenance and that order holds good till today. What has been held is that she is not entitled to enhanced amount of maintenance.

4. In view of the above discussion, I am clearly of the view that the order of the Court below is liable to be and is accordingly set aside. The order of the learned Family Court is modified and the non-applicant/husband is directed to pay maintenance at the rate of Rs. 6,000/- per month to the Applicant-wife from the date of filing of this revision petition i.e. 27.04.2011. The arrears of enhanced amount of maintenance shall be paid by the Respondent/husband to the Applicant/Wife within one year in 12 equal monthly installments and the future maintenance amount shall be paid on or before 15th of every month. The Applicant shall also be at liberty to file an appropriate application for enhancement

of maintenance in terms of Section 127 CrPC before the Court below and the Family Court shall summon the record to ascertain the pension and other emoluments of the husband and thereafter fix the maintenance amount.

5. The revision petition is allowed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE