

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.632 of 2008**

1. Lachni Bai, W/o Loknath Lodhi, aged about 24 years,
2. Mani Ram, S/o Loknath Lodhi, aged about 7 months (minor child)

Through his natural guardian mother Lachni Bai, W/o Loknath Lodhi

Both the Petitioners are R/o Village Bori, Police Station and Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh

---- **Petitioners**

versus

Loknath Lodhi, S/o Jethu Ram Lodhi, aged about 28 years, R/o Village Bori, Police Station and Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh

---- **Respondent**

For Petitioners	:	None
For Respondent	:	None

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

4.8.2016

1. This revision petition is directed against order dated 8.8.2008 passed in Case No.106 of 2007 by the Family Court, Rajnandgaon, whereby the Family Court rejected the petition filed by the wife under Section 125 of the Code of Criminal Procedure claiming maintenance for herself and for her minor son aged about 7 months.

2. The Family Court rejected the claim only on the ground that the wife had been unable to give any reasonable ground to show that why was she living separately from her husband. On going through the record, I find that this finding is totally incorrect. The wife in her statement had proved that earlier she had complained that there was a demand for dowry and, therefore, she had to leave the house of her husband in the month of March, 2006. Thereafter, the husband moved an application before the Parivar Paramarsh Kendra, Rajnandgaon. After being advised by the Parivar Paramarsh Kendra, they arrived at a compromise and started living together. But, soon thereafter, within 1½ months, the wife

again lodged a report against the husband alleging cruelty and demand of dowry. Therefore, it cannot be said that there was no allegation against the husband. Furthermore, I am clearly of the view that the Family Court totally misdirected itself in not awarding maintenance to the minor son. Even if the mother was at fault and not entitled to maintenance, I fail to understand how the Family Court could have absolved the father of his liability to pay maintenance to his son. This clearly shows that the Family Court was totally insensitive in the matter and did not even understand that the Court should look at the interest of the minor child more than anything else.

3. So far as quantum of maintenance is concerned, from the record, it stands proved that the husband was a young man of 28 years' age. He is an able bodied person and it has come on the record that he and his family had owned 6 acres of agricultural land. Even in the year 2008, an able bodied person would have been earning at least Rs.150/- per day, i.e., Rs.4,500/- per month. Keeping all these facts into mind, an amount of Rs.1,000/- per month is awarded in favour of the wife and an amount of Rs.800/- per month is awarded in favour of the minor son from the date of filing of the instant revision petition, i.e., 17.9.2008 for a period of 5 years. Thereafter, with effect from 17.9.2013, the wife shall be entitled and paid maintenance of Rs.1,500/- per month and the minor son shall be entitled and paid Rs.2,000/- per month. The wife and the minor son shall also be entitled to further enhancement of maintenance on expiry of the period of 5 years from 17.9.2013, i.e., with effect from 17.9.2018 by filing an appropriate application under Section 127 of the Code of Criminal Procedure. Obviously, the son shall be entitled to maintenance only till he attains majority.

4. The amount of maintenance is to be paid on or before 15th day of every month. The arrears of maintenance is to be paid in 12 equal

monthly installments on or before 15th day of every month. The order under challenge is modified to the extent indicated above. The criminal revision is disposed of in the aforesaid terms.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE