

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 315 of 2016**

- Gaya Ram Dewangan S/o Shri Thanwar Dewangan Aged About 47 Years R/o L.D.C. Physical Education Department, Office At Pt. Ravishankar University Raipur, Raipur, Tahsil And District Raipur Chhattisgarh.

---- PETITIONER**Versus**

1. Smt. Sunita Dewangan W/o Shri Gaya Ram Dewangan Aged About 35 Years Occupation House Wife, R/o Village Near Bans Tall, Madhav Rao Sapre Ward, Ward No. 68, Raipura, P.S. Deendayal Upadhyay Nagar, Raipur, Tahsil And District Raipur Chhattisgarh.
2. Montu Dewangan S/o Shri Gaya Ram Dewangan Aged About 9 Years Minor Through Legal Guardian Mother The Non-Applicant No. 1 Smt. Sunita Dewangan W/o Shri Gaya Ram Dewangan, R/o Village Near Bans Tall, Madhav Rao Sapre Ward, Ward No. 68, Raipura, P.S. Deendayal Upadhyay Nagar, Raipur, Tahsil And District Raipur Chhattisgarh.

---- RESPONDENTS

For Petitioner : Shri CK Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01/07/2016**

1. Challenge in this revision is to the order dated 10.02.2016 passed by the First Additional Principal Judge, Family Court, Raipur, in Misc. Criminal Case No.375 of 2014 whereby the court below in a proceeding under Section 127 CrPC has enhanced the maintenance amount payable to the respondents, wife and son, from Rs.2000/- & 1000/- respectively to Rs. 3000/- each.
2. Facts in brief necessary for disposal of this revision is that, the respondents No.1&2 are admittedly wife and son of the petitioner. The respondents initially filed an application under Section 125 CrPC seeking for grant of maintenance

from the petitioner. The said application was allowed on 28.10.2010 and it was directed that the petitioner shall pay an amount of Rs.2000/- towards maintenance to the respondent-wife. Subsequently, an application under Section 127 CrPC for enhancement of said amount was filed by the respondent which was registered as MJC Case No.227/2011 and finally on 26.06.2012 the court below enhanced the maintenance amount by awarding Rs.2000/- per month towards wife and Rs.1000/- per month towards respondent No.2-son.

3. After about 4 & ½ years, the respondents have now filed an application seeking enhancement of said maintenance amount taking into consideration the rise in cost of living and the fact that respondent No.2 has also started going to school and expenses towards education has also to be met.
4. The court below vide impugned order dated 10.02.2016 has allowed the said application by enhancing the maintenance part payable to the respondents by awarding Rs.3000/- each in place of Rs.2000/- and Rs.1000/- respectively leading to filing of this revision.
5. Learned counsel appearing for the petitioner assailing the said order submits that order enhancing the maintenance amount to Rs.3000/- each in favour of respondents is exorbitant and the petitioner does not have the paying capacity of the same. According to him, the petitioner is low paid government employee and he does not have sufficient source of income by which he could sustain himself and at the same time honour the order passed by the court below by paying Rs.3000/- each totaling Rs.6000/- per month as maintenance amount to the respondents. He further submits that though the petitioner is drawing gross salary of more than Rs. 33000/-, but after all the deductions towards departmental loan, the amount he gets in hand is much less.

6. A perusal of order would show that the findings of the court below is that from July, 2016 onwards, the loan which he had taken for purchase of vehicle was coming to an end which itself would be a saving of Rs.2000/- every month by the petitioner. Further, it also reflect from the order that the court below has taken note of the salary of the petitioner which was admittedly was more than 33000/- per month and if out of Rs.33000/- an amount of Rs.6000/- is given to the respondents (Rs.3000/- each) which comes to just Rs.100/- each per day, by no stretch of imagination the same can be said to be exorbitant or on the higher side particularly taking into consideration the cost of living and also taking note of the fact that respondent No.2 is now nine years old and has started going school which also requires sufficient expenditure.
7. For the reasons mentioned hereinabove, no good case is made out calling for interference with the impugned order. The same deserves to be and is accordingly dismissed.

Sd/-
(P.Sam Koshy)
JUDGE