

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1014 of 2016**

Sanjay S/o Ransai Aged About 28 Years Caste Harijan R/o Village Cherhapara, Churcha, Police Station Churcha, Tahsil Baikunthpur, District Koriya Chhattisgarh.

---- **Petitioners**

Versus

1. Sukwariya W/o Sanjay D/o Pati Narayan Aged About 30 Years Caste Chamar,
2. Ashish S/o Sanjay Aged About 5 Years Caste Chamar, Through : Guardian Mother Smt. Sukwariya (non applicant No.1).

Both R/o Village Dhodhibahara, Police Station & Tahsil Baikunthpur, District Koriya Chhattisgarh.

---- **Respondents**

For Petitioners : Shri Mazid Ali, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

04/11/2016

1. Challenge in this revision is to the order dated 28.09.2016 passed by the Family Court, Baikunthpur, in Misc. Criminal Case No.120/2015. Vide the said impugned order, the court below in a proceeding under Section 127 CrPC has enhanced the amount of maintenance payable to the respondent-wife from Rs.1700/- to Rs. 4000/- per month.
2. Learned counsel appearing for the petitioner assailing the impugned order submits that the amount of maintenance enhanced by the court below is very exorbitant and is beyond his paying capacity. He submits that the petitioner has got many other family liabilities and for which also his salary is not sufficient and in case if the impugned order is affirmed and ordered to be

complied with, then the petitioner would find it difficult to meet these requirements. He further submits that the petitioner has also got his expenses increased on account of his traveling daily for about 50 KM to his working place where he is presently working as Rural Health Coordinator which also adds to his burden which he is otherwise required to undertake.

3. However, a perusal of the records would show that admittedly there was a proceeding under Section 125 CrPC drawn by the respondent wife against the petitioner in the year, 2014 when the case was registered as Misc. Case No.143/2014. The family Court Baikunthpur vide order dated 18.02.2014 held that the wife and her minor son borne out of their relationship as Husband and Wife, is entitled for maintenance amount of Rs.1700/-per month to be paid by the Husband.
4. Further, what is otherwise reflected is the fact that respondent wife is presently residing alongwith her minor son and it is anybody's guess as to what would be the minimum amount of money which is required for two persons for sustaining themselves taking into consideration the high cost of living in todays world. If we divide Rs. 4000/- by number of days in a month i.e. 30 days, it comes to Rs.133/- per day, which by no stretch of imagination cannot be said to be exorbitant for maintenance of two persons particularly the minor son who has now reached school going age and has also to meet the expenses of his education also which has to be adjusted from the amount which has been awarded by the court below i.e. Rs. 4000/-.
5. Another aspect which cannot be brushed aside is the fact that the admitted salary of the petitioner is Rs.17500/- and of which Rs. 4000/- is less the $\frac{1}{4}$ of the total emoluments and this also would reflect that the amount is not

exorbitant. Thus, in the opinion of this court, the court below has not committed any error of law while enhancing the amount of maintenance payable to the respondent wife and her minor son.

6. For the foregoing reasons, this court does not find any illegality in the order passed by the court below while enhancing the amount of maintenance payable to the respondents. Accordingly, the petition fails and is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE