

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 59 of 2016

- Mehattar Das Kurrey S/o Patiram Kurrey @ Jhabriya Aged About 50 Years R/o Thakkar Bapa Ward Gudiyari, Raipur Near Gosai Bada Behind Roopchand House Raipur, Tahsil & Civil & Revenue District Raipur Chhattisgarh

---- Applicant

Versus

- Premin Bai W/o Mehattar Das Kurrey @ Konda Aged About 45 Years R/o Thakkar Bapa Ward Gudiyari, Raipur Near House Of Ramavtar Markhande Ex-Ward Member Raipur Civil & Revenue District Raipur Chhattisgarh

---- Respondent

For applicant	: Shri C.R.Sahu, Advocate
For Respondent	: None present.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

22/01/2016

Heard on admission.

Challenge in the present revision is to the order dated 22.12.2015 passed by the Principal Judge, Family Court, Raipur in Criminal MJC No. 447/2014 whereby allowing the application as filed by the non-applicant/wife under Section 127 Cr.P.C., the amount of maintenance has been enhanced from Rs. 350/- per month to Rs. 500/- per month.

Counsel for the applicant submits that the original order was passed on 13.04.2006 granting Rs. 350/- per month as maintenance to the non-applicant and subsequently on the application filed by the non-applicant on 20.08.2014 the amount has been enhanced to Rs. 500/- per month. He submits that on 25.3.2010 the non-applicant had entered into an agreement with the applicant wherein she agreed that in future she would not claim any maintenance. He submits that once the non-applicant has entered into agreement with the applicant, the court below was not justified in allowing the application filed by the non-applicant under Section 127 Cr.P.C.

I have heard counsel for the applicant and perused the documents.

After going through the documents it has been observed by the Family Court that the agreement was in fact between the applicant and his son Santosh and the non applicant had never agreed that she will not claim any maintenance. The court below after considering all the aspects of the case has enhanced the amount of maintenance from Rs. 350 to that of Rs. 500/- per month.

It is a settled position of law that no such agreement between the parties can take away the right of the wife for claiming maintenance. Even assuming that the non-applicant has agreed for not claiming maintenance in future no law stops her from filing application under Section 127 Cr.P.C. It is surprising that the court below has enhanced the amount from Rs. 350/- to that of Rs. 500/- only ignoring the current price hike and the fact that the original order was passed in the year 2006.

The revision has no substance, the same is accordingly dismissed.

Sd/-

Pritinker Diwaker
Judge