

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.417 of 2015**

1. Smt. Kiran Jangde, W/o Shri Guha Singh, Age around 28 years, R/o B-225, Pragati Nagar, Dipka, Tahsil Katghora, District Korba, Chhattisgarh
2. Ku. Nidhi, age around 4 years (Minor), through Natural Guardian Mother Smt. Kiran Jangde (Petitioner No.1)

Both Resident of B-225, Pragati Nagar, Dipka, Tahsil Katghora, District Korba, Chhattisgarh

---- **Petitioners**

versus

Guha Singh, aged about 36 years, S/o Valmiki Jangde, R/o Jangle Side, M-18, Bankimogara, Tahsil Katghora, District Korba, Chhattisgarh

---- **Respondent**

For Petitioners	:	Ms. Ruchi Nagar, Advocate
For Respondent	:	Shri Brijesh Singh, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

25.10.2016

1. This revision petition for enhancement of maintenance is directed against the order dated 10.4.2015 passed by the Learned Judge, Family Court, Camp Court, Katghora, District Korba in M.J.C. No.31 of 2013, whereby he awarded the maintenance of Rs.5,000/- per month in favour of wife Smt. Kiran Jangde and Rs.2,000/- per month in favour of daughter Ku. Nidhi.
2. According to the wife, husband/Respondent is working as Mining Sardar and earning salary of more than Rs.60,000/- per month and, therefore, the maintenance should be enhanced.
3. On behalf of the Respondent/husband, it has been urged that the husband is always ready and willing to keep the wife with him. It has been submitted that the wife is always creating problems. According to Learned Counsel for the Respondent, the wife initiated the proceedings against the husband for demand of dowry. She also

initiated the proceedings against the husband under the Domestic Violence Act and she is not ready and willing to stay with her husband/Respondent despite various attempts made both personally and family members as well as by the elder members of the society. On merits, it is urged that because of the behaviour of the wife, the husband/Respondent has gone into depression and does not work regularly and on many occasions he is not even getting the minimum salary.

4. At the outset, it may be pointed out that the order has been passed by the Family Court on 10.4.2015, in which it has been held that the wife and daughter are entitled to maintenance. This order has not been challenged by the husband and all the incidents which have been referred to by Learned Counsel for the husband/Respondent are prior to 10.4.2015. It would also be pertinent to mention that as pointed out by Learned Counsel for the Petitioner/wife, the husband has himself filed a divorce petition against the wife on the ground of cruelty on 6.4.2015.
5. This Court, at this stage is not going into the merits of the case because the only issue is what is the reasonable amount of maintenance to be granted to the wife and daughter. Even before the Family Court, in the year 2014-15, there was sufficient evidence to show that the basic salary of the husband was Rs.17,823/- per month, on which he was entitled to dearness allowance of almost Rs.5,000/- per month. Therefore, even without adding the other allowances, such as overtime etc., the emoluments were more than Rs.22,000/- – Rs.23,000/- per month. The Family Court itself has held the income of the husband to be about Rs.30,000/- per month. Now, the wife has produced certain documents before this Court which shows that the basic pay of the husband is Rs.20,709.42. He is getting dearness allowance of Rs.9,836.98 and special dearness allowance of

Rs.371.73. Therefore, his basic salary itself is Rs.31,000/- per month. The husband is getting more than Rs.6,500/- deducted every month on account of provident fund. If the husband gets deducted Rs.6,500/- per month, why the wife and daughter should not be awarded higher than this amount for their maintenance. However, Learned Counsel for the husband has rightly pointed out that the salary statement produced by the wife also contains emoluments of Rs.9,409.87 as overtime allowance. This overtime allowance may or may not be available to her husband every month. He may or may not want to work overtime all the times. Be that as it may, this clearly indicates that the total emoluments of the husband prior to deduction are more than Rs.40,000/- per month. If this be so, then the amount awarded to the wife and daughter is very much on the lower side. While assessing the maintenance for the wife and daughter, I am also considering the fact that the husband has to support his aged parents and one disabled brother. Even so, the wife and daughter must get approximately 1/3rd of the husband's total income for their maintenance. Since, I have assessed the income of the husband as Rs.40,000/- per month, the wife and the daughter must get Rs.13,000/- per month in total. I accordingly award an amount of Rs.8,000/- per month as maintenance in favour of the wife and Rs.5,000/- per month in favour of the daughter. This enhanced amount shall be paid to the wife and the daughter with effect from the month of November, 2016 and with effect from November, 2016 the husband shall pay maintenance of Rs.8,000/- per month to the wife and Rs.5,000/- per month to the minor daughter, i.e., total amount of Rs.13,000/- per month. To avoid any dispute with regard to payment of the maintenance amount to the wife and the daughter, Learned Counsel for the wife is requested to supply bank account details, such as bank account number of the wife, IFS Code and MICR Code of that

Bank to the Learned Counsel for the husband/Respondent. The husband shall directly deposit the total amount of maintenance of Rs.13,000/- per month in the bank account of the wife regularly.

6. The revision petition is disposed of in the aforesaid terms.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE