

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1093 of 2016**

1. Smt. Pinki Singh Thakur W/o Hanumant Thakur Aged About 27 Years
 2. Ku. Vanshika D/o Hanumant Thakur Aged About 3 Years
 3. Ku. Kavya Thakur D/o Hanumant Thakur Aged About 1 Years
- No. 2 & 3 are minor, Represented Through Mother Pinki Singh Thakur,
All are R/o E.W.S. House No. 142, 143, M.P. Nagar Korba, At Present
R/o Heeralal Ward, Doupara, Mungeli, Tahsil, Police Station & District-
Mungeli, Chhattisgarh.

---- Petitioners**Versus**

Hanumant Singh Thakur S/o Gajrup Singh Aged About 30 Years R/o
E.W.S. House No. 142, 143, M.P. Nagar, Korba, District- Korba,
Chhattisgarh.

---- Respondent

For Petitioners
For Respondent

Shri Anant Bajpai, Advocate.
Shri Vipin Punjabi and Shri Sunil Verma,
Advocates.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/01/2017**

1. The present petition under Section 482 CrPC has been filed challenging the order dated 23.02.2015 passed in Criminal Revision No.18/2014 by the Additional Sessions Judge, Mungeli. Vide the impugned order, the revisional court has allowed the revision petition of the present petitioners which was filed against rejection of application under Section 125 CrPC before the JMFC, Mungeli in Misc. Criminal Case No.6/2013 on 14.04.2014. This petition is for enhancement of maintenance amount awarded by the revisional court.
2. Facts in brief relevant for adjudication of the case is that, the

petitioners herein had filed a case under Section 125 CrPC before the JMFC, Mungeli where the case was registered as Misc. Criminal Case No. 6/2013. After the evidence and pleadings were complete, the court below reached to the conclusion that the petitioners are not entitled for grant of maintenance from the respondent-Husband as they have not been able to establish their case properly by leading cogent evidence resulting in the rejection of their application on 14.04.2014. The said rejection order dated 14.04.2014 was subjected to challenge in Criminal Revision i.e. Criminal Revision No.18/2014 before the Additional Sessions Judge, Mungeli. The revisional court vide impugned order dated 23.02.2015 allowed the revision petition and also the claim for grant of maintenance and ordered for payment of Rs.1000/- as maintenance to each of the petitioners i.e. petitioner No.1, wife of the respondent, and petitioners No.2&3, two minor daughters, born out of wedlock of petitioner No.1 & respondent. It is this order which has been challenged by the petitioners in this petition seeking for enhancement of award.

3. Counsel for the petitioners submits that the court below did not appreciate the evidence which had been adduced by the petitioners so far as the income of the respondent is concerned. According to him, the respondent in the instant case runs a Hotel/Restaurant at Korba in the name and style of "Shri Sai Hotel" and has sufficient strong source of income and thus taking into consideration the said business of the respondent, the amount of maintenance awarded by the court below is on the lower side and the same deserves to be enhanced

appropriately.

4. Counsel for the respondent however denies the source of income of the respondent and submits that he does not have sufficient income generated from his business as he has other liabilities also at his residence like his parents to take care of and from the income that is generated from the business of Hotel it is not possible for him to sustain himself and his parents after providing Rs.3000/- as monthly maintenance to the petitioners. According to him, the present petition further deserves dismissal only on the ground of delay and laches as the present petition has been filed at much belated stage inasmuch as the impugned award has been passed on 23.02.2015 and the present petition has been filed after 1 and ½ years i.e. in the month of September, 2016.
5. It is also submitted that in case if the petitioners are entitled for any maintenance, they should have moved appropriate application or proceeding under Section 127 CrPC before the appropriate court. Having not done so, the present petition deserves to be rejected on this ground.
6. Having considered the rival contentions put forth on either side and on perusal of record which have been placed before the court what perhaps appears is the undisputed fact that the respondent is operating business of Hotel in the name of Shri Sai Hotel at Korba. The only dispute is in respect of what the actual income derived from the said Hotel by the respondent so as to provide maintenance to the petitioners.

7. In the given facts of the case and taking into consideration the todays cost of living, this court is of the opinion that the amount of maintenance i.e. Rs.1000/- which has been awarded to each of the petitioners is definitely on the lower side as it is anybody's guess as to what would be the minimum amount of money which is required for three persons for sustaining themselves taking into consideration the high cost of living in todays world and considering the basic requirements of house, clothing and foods in addition the education of petitioners No.2 & 3.
8. It is also relevant at this juncture to mention that the actual income of the respondent has not been properly proved and established by the petitioners by adducing cogent evidence before the court below. Therefore, in the opinion of this court ends of justice would meet if the amount of maintenance awarded to the petitioners are enhanced so as to ensure that they would be able to maintain a decent standard life and also to meet the basic minimum requirements.
9. Accordingly, the petition is allowed. The amount of maintenance awarded to the petitioner No.-1 wife is enhanced from Rs. 1000/- to Rs.2000/- per month whereas, the amount of maintenance awarded to respondents No.2&3 is enhanced from Rs.1000/- each to Rs.1500/- each per month. Thus, the total amount of maintenance payable to the petitioners is enhanced from Rs.3000/- to Rs. 5000/- per month.
10. Petition is allowed to the above extent.

Sd/-
(P. Sam Koshy)
Judge

inder