

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 955 of 2016**

- Smt. Shyambai Khairwar W/o Shri Radheshyam Khairwar Aged About 47 Years R/o Jhopdipara Mudapar, Korba, Tahsil & District Korba, Chhattisgarh.

---- Applicant**Versus**

- Radheshyam Khairwar S/o Shri T.R. Khairwar Aged About 51 Years R/o Krishna Nagar, Manikpur Korba, Tahsil & District Korba, Chhattisgarh.

---- Non-applicant

For Applicant
For Non-applicant

Mr. S.B. Pandey, Advocate
Mr. Mirza Kaiser Baeg, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****17.01.2017**

1. The present Revision Petition has been preferred assailing the order dated 06.08.2016 passed by the Family Court, District Korba in M.J.C. No. 83/2016 whereby the Court below in a proceeding under Section 127 of the Cr.P.C. has enhanced the maintenance amount payable to the Applicant from Rs. 3800 to Rs. 4500/- per month.
2. Learned Counsel for the Applicant submits that it is the case where the Non-applicant husband of the Applicant is employee of a public sector undertaking i.e. South Eastern Coalfields Ltd. (S.E.C.L.) and working as fitter. He further submits that the gross salary of the Non-applicant husband is more than Rs. 50,000/- and for that reason the said amount Rs. 4500/- as maintenance is too meagre an amount

and deserves to be enhanced.

3. Learned Counsel for the Applicant submits that it is a case where the Applicant is entitled to lead a decent standard of life commensurate to the status of the Non-applicant who is employee of S.E.C.L.. He further submits that though the Applicant has categorically pleaded before the Court below that the salary of the Non-applicant was more than Rs. 50,000/-, the Non-applicant has not produced his salary slip so as to show his actual salary if that was not more than Rs. 50,000/- per month, therefore prays for the enhancement of the maintenance amount.
4. Learned Counsel for the Non-applicant husband opposing the Petition submits that the present Applicant had not been able to prove the salary of the Non-applicant with which the amount could have been suitably enhanced. But taking into consideration the submission of the Non-applicant that his salary was Rs. 28,000/- the monthly maintenance was enhanced from Rs. 3800/- to Rs. 4500/- and thus there is no need for interference with the impugned order.
5. On a specific query being put to Shri Baeg he was not able to state the gross salary of the Non-applicant husband neither he has been able to show salary slip of the Non-applicant husband. The undisputed fact of the Non-applicant being a fitter in the public sector undertaking, S.E.C.L. it is anybody's guess that the employees in the S.E.C.L. are paid a good amount of salary in accordance with the wage settlement that took place at regular intervals.
6. Considering the fact that Non-applicant has not been able to show his salary slip as also the fact that he has not been able to rebut the

contention of the Applicant in respect of his salary is more than Rs. 50,000/-, this Court draws an inference against the Non-applicant in reaching to the conclusion that the Non-applicant husband is working as fitter in S.E.C.L. his gross salary is more than Rs. 50,000/-. Only yesterday there was a proceeding drawn before this Court in which again the Non-applicant was an employee of the S.E.C.L. and working as a fitter in Criminal Revision No. 739/2016 and had produced the salary slip which showed his gross salary was more than Rs. 50,000/-. Thus, taking into consideration the averments made in the said Revision Petition, this Court draws an inference against the Non-applicant and taking the same to be gross salary for the present Non-applicant also, this Court is of the opinion that ends of justice would meet if the order dated 06.08.2016 is modified to the extent that the Applicant is entitled for monthly maintenance amount of Rs. 7500/- .

7. Accordingly, the impugned order in MJC No. 83/2016 stands modified to the extent that the Applicant is entitled for maintenance amount of Rs. 7500/- per month.
8. With the aforesaid modification the present Revision Petition stands allowed and disposed off.

Sd/-

**(P. Sam Koshy)
JUDGE**