

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 106 of 2017**

Shyam Lal Kurre S/o Daduram, aged about 40 years, R/o Village- Chilhati, Police- Station- Sarkanda, Tahsil & District- Bilaspur, Chhattisgarh, Present address:- the office of C.G.E.B. Torwa, Police Station Torwa, Tahsil & District- Bilaspur, Chhattisgarh.

---- Applicant**Versus**

1. Smt. Jumratan W/o Shyamlal, aged about 38 years, R/o Village- Chilhati, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh.
2. Ku. Sapana D/o Shyamlal, aged about 17 Years (minor natural guardian is Smt. Jumratan mother) R/o Village- Chilhati, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh.

---- Respondents

For Applicant : Shri Ravi Maheshwari, Advocate.

Hon'ble Shri Justice P.Sam Koshy**Order On Board****08/02/2017**

The present revision has been preferred assailing the order dated 07.11.2016 passed in M.J.C No. 221 of 2016 whereby the Family Court, Bilaspur in a proceeding under Section 127 CrPC has enhanced the maintenance amount from Rs.2,300/- to Rs. 4,000/- payable to respondent no.1 and from Rs.1,600/- to Rs.3,000/- payable to respondent no.2 .

2. Counsel for the applicant submits that the impugned order is bad in law where the enhancement has been done without giving any opportunity of defence to the applicant. He submits that the Court below ought to have granted at least one opportunity to the applicant for proper defence against the prayer for

enhancement which was made by the respondents. He further submits that the amount of maintenance which has been granted is also exorbitant and on the higher side for the reason that there are huge amount of deductions from his salary and the applicant has a son with him solely dependent on the applicant, therefore, the enhanced amount would make it very difficult to sustain. He further submits that the respondents are staying in the house provided by the applicant and therefore also, there was no reason for the amount to be enhanced. Thus, prayed for setting aside of the impugned award.

3. Having considered the contentions put forth by the counsel for the applicant and on perusal of the record what is an undisputed fact from the pleadings is that initially a proceeding under Section 125 CrPC was initiated in the year 2011 by the respondents which finally got adjudicated upon on 05.02.2014. The Court below allowing the said application ordered that the respondents 1 & 2 would be entitled for Rs.2,300/- and Rs.1,600 respectively totaling Rs.3,900/- per month as maintenance. The said order dated 05.02.2014 was put to challenge in a revision before this Court registered as Criminal Revision No. 33/15 which was also rejected vide order dated 19.01.2015. As such the order passed under 125 CrPC proceeding has attained finality. Subsequently, an application under Section 127 CrPC for enhancement was filed by the respondents before the Court below. Since the applicant did not appear on the dates fixed before the Court below, the Family Court proceeded further with the case and decided it on merits enhancing the maintenance amount from Rs.2,300/- to Rs. 4,000/- payable to respondent no.1 and from Rs.1,600/- to Rs.3,000/- payable to respondent no.2.

4. The further undisputed fact which has come on record is that the salary certificate of the applicant which was produced during the course of hearing itself

reflects that the applicant was drawing salary of Rs.42,330/- in the month of February, 2014. From the record it is also reflected that after all the deductions that were made, the take home salary of the applicant was more than Rs.27,000/-. From the said amount if the Court below has awarded total Rs.7,000/- per month as maintenance to the respondents, the same cannot be said to be in any manner exorbitant or on the higher side calling for an interference. One should not forget that the respondent no.2 is a young daughter of the applicant staying with respondent no.1 and that she is also undergoing her education which also requires much expenses.

5. For the aforesaid reasons, this Court does not find any illegality or infirmity on the part of the Court below in enhancing the total maintenance amount from Rs.3,900/- to Rs.7,000/- per month looking to the present day cost of living.

6. Thus, the present Criminal Revision being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P.Sam Koshy)
JUDGE