

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 72 of 2017**

- Shatrughanlal S/o Sukaloram Sahu, Aged About 40 Years R/o Village-Dhupsal, Police Station- Gendatola, District- Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

- Smt. Darni Alias Dharni Bai W/o Shatrughan Sahu, Aged About 30 Years R/o Village- Dhupsal, Thana- Gendatola, Presently R/o Village- Dautola, Thana- Ambagarh Chauki, District- Rajnandgaon Chhattisgarh.

---- Non-applicant

For Applicant

Mr. S.S. Baghel, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****19.01.2017**

1. Heard on I.A. No.1/2017, which is an application for condonation of delay.
2. For the reasons assigned in the said application and the same found to be satisfactory, I.A. No.1 is allowed. Delay of 48 days in filing the Revision Petition stands condoned.
3. The present Revision Petition has been preferred assailing the order dated 31.08.2016 whereby the Court below in a proceeding under Section 127 of the Cr.P.C. allowing the same has enhanced the monthly maintenance amount from Rs. 1200/- to Rs. 2200/- payable to the Non-applicant.
4. The undisputed facts in the present case is that the Non-applicant had initially filed application under Section 125 Cr.P.C. which was decided vide order dated 28.04.2009. Vide the said order the Court below had allowed the application under Section 125 Cr.P.C. and ordered for payment of Rs. 1200/- monthly maintenance to the Non-applicant wife.

5. The said order dated 28.04.2009 was never put to challenge and the same has attained finality. Since 2009 the present Applicant is paying Rs. 1200/- to the Non-applicant continuously. Subsequently, in the year 2015 i.e. after more than 6 years from the original order being passed the application under Section 127 Cr.P.C. was filed by the Non-applicant which has been allowed by the Court below enhancing the maintenance amount from Rs. 1200/- to Rs. 2200/- per month. Thereby enhancing the amount by Rs. 1000/-.
6. Learned Counsel for the Applicant submits that the paying capacity of the Applicant is not permitting him to pay the amount more than what has been already decided in favour of the Non-applicant i.e. Rs. 1200/-. He submits that the Non-applicant wife is living separately of her own. Because of the fact that she has left home the present Applicant has subsequently remarried and also looking after his parents, therefore it would be difficult for him to pay enhanced amount and thus prayed for its revocation.
7. However, a perusal of the record would show that the order under Section 125 had already attained finality. So there is no question of further reconsideration whether the Non-applicant wife had left house of the husband by her own or under compelling circumstances. Further for the reason that the order under Section 125 Cr.P.C. has been passed in favour of the Non-applicant way back in 2009, taking into consideration the time lapsed from the first order being passed i.e. almost 7 years, it can not be said that the amount enhanced by the Court below to be either exorbitant or on higher side. The Applicant is a Shiksha Karmi under State Government. There is periodical rise in the salary of the Applicant. Therefore, the Non-applicant is also entitled for enhancement on the amount which was awarded 6 years back.

8. For the aforesaid reasons, this Court does not find any good ground for interference with the order passed by the Family Court.
9. Accordingly, the Revision Petition being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE