

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 774 of 2017**

- Mustafa Khan S/o Late Jeer Mohammed Khan, Aged About 33 Years R/o Ekta Chowk, Behind Nurani Masjid (Worngly Mentioned As Nurani Masjid In The Order), Talapara, Police Station Civil Lines, District Bilaspur Chhattisgarh.

----Applicant**Versus**

1. Mohd. Saif Khan S/o Mustafa Khan, Aged About 10 Years
2. Mohd. Kaif, S/o Mustafa Khan, Aged About 8 Years

Represented Through Smt. Noor Bi W/o Of Shahid Khan, aged about 53 years, R/o Infront Of Ramjani Baba, Talapara Police Station Civil Lines, District Bilaspur Chhattisgarh.

---- Respondents

For Applicant : Shri Afroz Khan, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****10/08/2017**

1. Heard.
2. This revision is filed against the order dated 02.09.2016, passed in Misc. Criminal Case No.101/2015 by the Family Court, Bilaspur.
3. The admitted facts of the case are that an application under Section 127 of Cr.P.C. was filed by the minor children namely Mohd. Saif Khan and Mohd.. Kaif, aged about 10 & 8 years respectively that initially on 08.08.2012 an application was filed on behalf of the respondents, which was allowed and an amount of Rs.500/- was directed to be paid to the children.

Subsequently, the second application has been filed under Section 127 of the Cr.P.C. to enhance the amount on the ground that now the children have started studying in school on the amount of Rs.500/- they cannot maintain themselves, as such the application was preferred by the guardian on behalf of the minor children.

4. Learned counsel for the applicant would submit that the applicant being unemployed is not able to earn livelihood, therefore, is not in a position to pay the enhanced amount and also there is no reason to enhance the amount of compensation and prays that the impugned order may be set aside. He also prays that the delay of 243 is bona fide and deserves to be condoned.
5. Perused the application for condonation of delay filed along with the revision. No considerable reason has been assigned to condone the delay. Furthermore taking into consideration the merits of the case it would show that on 08.08.2012 maintenance award of Rs.500/- was granted to the each of two minor children and the applicant is the father and the order records that initially the name of the father was wrongly mutated by the maternal grandmother (Nani), however, that was subsequently corrected. The fact remains that the relation *inter se* the applicant and non-applicant Nos. 1 & 2 are not in dispute that they are the sons of the applicant. Record shows that initially the order was passed in the year 2012 whereby Rs.500/- to each of the children totaling to Rs.1000/- was ordered thereafter considerable period has passed.
6. Taking into consideration the price index which is prevailing in the society and hike in value of the commodities and the fact that the non-applicant who were minor in year 2012 are now stated to be studying in the school the

amount of enhancement to the extent of Rs.1000/- in favour of each of the minor children from 500 each cannot be stated to be wrong and I do not find any reason either to condone the delay or interfere with the order. Accordingly, the revision is dismissed.

Sd/-

Goutam Bhaduri

Judge

Ashu