

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 910 of 2016**

- Kumari Bai W/o Sarjunal Aged About 38 Years Caste - Satnami, R/o Village - Pihirid, Police Station & Tahsil - Malkharouda District Janjgir Champa Chhattisgarh

**---- Applicant****Versus**

- Sarjunal S/o Bidur Aged About 42 Years Caste - Satnami, Occupation - Employee (Irrigation Department) Present R/o Village - Madanpur, Kharsian, Police Station & Tahasil Kharsian, District - Raigarh Chhattisgarh (Wrongly Mentioned As Janjgir - Champa In Order Impugned)

**---- Non-applicant**


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| For Applicant:      | Mr. I. Jaiswal, Advocate      |
| For Non-applicant : | Mr. Basant Dewangan, Advocate |

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**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****16.02.2017**

1. The present Revision Petition has been filed assailing the order dated 14.07.2016 passed by the Family court (Link Court), Sakti, District – Janjgir Champa (C.G.) in Miscellaneous Criminal Case No. 57/2015. Vide the impugned order the Court below has rejected the application under 127 of the Cr.P.C. filed by the present Applicant seeking for enhancement of the maintenance amount.
2. Some of the admitted facts from the averments made by the Counsel for the Applicant is that the relationship between the Applicant and the Non-applicant is that of husband and wife. There is no dispute respect of the said relationship. The other admitted fact is that initially Section 125 proceedings were drawn by the Applicant against the Non-applicant which was registered as M.J.C. No.38/2007. The same was decided on 07.11.2008 whereby it was ordered that the Non-applicant

husband shall pay Rs. 2000/- to the Applicant wife and Rs. 1000/- to the son born to the Applicant from the Non-applicant. Subsequently 127 proceeding were drawn on 12.01.2012 which was registered as Miscellaneous Criminal Case No. 03/2012 seeking for enhancement of the maintenance amount. The said application was also allowed by the Family Court, Shakti vide the order dated 12.10.2012 whereby the amount of maintenance earlier granted was enhanced to Rs. 3000/- from Rs. 2000/- and the maintenance amount granted to their son was enhanced from Rs. 1000/- to Rs. 2000/-, thus totalling Rs. 5000/- was being paid by the Non-applicant to the Applicant.

3. The record shows that the pay slip of the Non-applicant for the month of May, 2015 was produced before the Court below where the gross salary of the Non-applicant was shown to be more than Rs. 27,000/-. Another undisputed fact is that subsequently the son of the Applicant born from the Non-applicant attained the age of majority and his payment of maintenance was then stopped. Thus the Non-applicant is now paying only Rs. 3000/- to the Applicant as maintenance. Subsequently, another application under Section 127 of the Cr.P.C. for grant of an enhancement of the said amount was filed on 10.07.2015 which was registered as Miscellaneous Criminal Case No. 57/2015. It is this application which has now been rejected and which is under challenge in the present Revision Petition.
4. Without going into the merits of the case what is striking the conscience of this Court is the fact that the Non-applicant had not challenged enhancement of maintenance amount allowed on 12.10.2012 and since that date he is paying an amount of Rs. 5000/- towards maintenance to the Non-applicants. Subsequently on their son attending the age of majority an amount of Rs. 2000/- payable to the

son has been stopped. Admittedly with the advance of time the cost of living has enhanced substantially and also the salary of the Non-applicant has increased and is also likely to be revised very soon. If we take into consideration the facts and circumstances of the case if the amount granted to the Applicant is divided into 30 days of a month it is only amounts Rs.100/- a day which is too meagre an amount for maintaining a descent standard of life particularly keeping in view the present day cost of living particularly when the husband's salary is more than 27,000/- per month.

5. Thus in the opinion of this Court ends of justice would meet if the amount of Rs. 3000/- is enhanced to Rs. 5000/- per month to be paid by the Non-applicant husband as maintenance to the Applicant. In any case the husband was paying Rs. 5000/- inclusive of the maintenance to the Son as such the husband is not going to be financially burdened.
6. Accordingly, the present Revision Petition stands allowed.
7. The order passed by the Family Court on 14.07.2016 rejecting the enhancement of the maintenance stands altered and it is ordered that the Applicant shall be entitled for an enhanced amount of maintenance of Rs. 5000/- and the same shall be payable from the date of order passed by the Court below.
8. With the aforesaid modification the present Revision Petition stands allowed.

Sd/-

(P. Sam Koshy)  
**JUDGE**